AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

7-21-80
Vol. 45 No. 141
Pages 48573-48846

federal register

Monday
July 21, 1980

Highlights

48715 **Consumer Programs** GSA/OFR plans to add Consumer Subject Listing to daily FR; workshop for Consumer Affairs staff on 7–29–80

48751 **Grant Programs—Social** Justice/NIC announces sponsorship of cooperative agreement grant entitled "National Institute of Corrections Training and Consulting Project"; apply by 9–15–80

48623 **Grant Programs—Health** HHS/PHS sets forth requirements for grants for allied health projects; effective 7–21–80

48622 **Grant Programs—Health** HHS/CDC and PHS provide for grants to dental manpower shortage areas and clarifies definition of "optimal fluoride level"; effective 7–21–80

48626 **Transportation—Etiologic Agents** HHS/CDC and PHS modifies requirements for interstate shipment of etiologic agents, diagnostic specimens and biological products; effective 8–20–80

48619 **Postal Service** PS deletes regulations requiring parcels containing controlled substances be sent by registered mail; effective 8–20–80

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

48663 **Postal Service** PRC proposes rule to streamline procedures for cases filed by the PS as experiments under the Postal Reorganization Act; comments by 8–20–80

48646 **Natural Gas** DOE/ERA proposes changes to synthetic natural gas (SNG) feedstock allocation regulations; comments by 9–19–80; hearing on 8–26–80

48812 **Air Pollution Control** EPA and Treasury/Customs proposes rules governing importation of motor vehicles and motor vehicle engines for the purpose of emission standard compliance; comments by 9–19–80 (Part IV of this issue)

48792, 48794, 48796 **Motor Carriers** ICC initiates implementation of the Motor Carriers Act; effective 7–21–80; comments by 8–20–80 (4 documents) (Part II of this issue)

48668 **Hazardous Materials Transportation** DOT/MTB and RSPA proposes regulations to require retrofitting DOT 105 tank cars; comments by 10–16–80

48671 **Hazardous Materials Transportation** DOT/MTB and RSPA proposes changes in construction and maintenance standards for railroad tank cars; comments by 9–18–80

48712 **Truth in Lending** Federal Financial Institutions Examination Council publishes statement of enforcement policy summarizing and explaining provisions of restitution under the act; effective 7–11–80

48609 **Cigarettes** Treasury/ATF requires distributors of more than 60,000 cigarettes in a single transaction to keep suitable commercial records; effective 9–19–80

48755 **Improving Government Regulations; Delay of Semiannual Agenda** OMB issues notice of delay in publication

48765 **Sunshine Act Meetings**

Separate Parts of This Issue

48792 **Part II, ICC**
48800 **Part III, WRC**
48812 **Part IV, ECA and Treasury/Customs**
48822 **Part V, DOT/CG**
48830 **Part VI, Interior**

Contents

Federal Register
Vol. 45, No. 141
Monday, July 21, 1980

Agricultural Marketing Service
RULES
48576 Potatoes (Irish) grown in Calif. and Oreg.
PROPOSED RULES
Milk marketing orders:
48638 Georgia

Agriculture Department
See also Agricultural Marketing Service; Forest Service.
RULES
Authority delegations by Secretary and General Officers:
48576 Consumer Affairs Office, establishment

Alcohol, Tobacco and Firearms Bureau
RULES
Cigars, cigarettes, and cigarette papers and tubes:
48609 Cigarette distribution; recordkeeping requirements

Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
48684 Southwest Oregon Area Service, Buckley-Summer Lake transmission line; location supplement

Center for Disease Control
RULES
Grants:
48622 Fluoridation programs for communities and schools; dental manpower shortage areas and definition of "optimal fluoride level"
Interstate quarantine:
48626 Etiologic agents; interstate shipment

Civil Aeronautics Board
RULES
48600 Air carriers, adherence to filed commission schedules for air transportation sales; policy statement, removal
48599 Air carriers; commission schedules for air transportation sales; elimination of filing requirement
48600 Fare flexibility; Puerto Rico/Virgin Islands, Hawaii, and Alaska; policy statement; interim
PROPOSED RULES
48654 Fare flexibility; Puerto Rico/Virgin Islands, Hawaii, and Alaska; interim policy statement

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
48680 Arizona

Coast Guard
RULES
Drawbridge operations:
48618 Maine (2 documents)
48619 Mississippi
Vessel traffic management:
48822 Puget Sound; small passenger vessels; vessel traffic service (VTS) regulations
PROPOSED RULES
Anchorage regulations:
48662 Florida
Vessel traffic management:
48826 Puget Sound; vessel traffic service (VTS) boundary
48827 Puget Sound tank vessel operations

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
Futures contracts, proposed; availability:
48682 New York Futures Exchange, Inc.
48682 Self-regulatory organizations; supervision of futures commission merchants compliance with financial requirements; proposed joint audit plan; inquiry

Cost Accounting Standards Board
RULES
Cost accounting standards:
48635 Capital assets under construction costs; cost of money as element

Customs Service
PROPOSED RULES
48817 Motor vehicles and engines; importation under Clean Air Act

Defense Department
RULES
Personnel:
48619 Ready reserve obligation, unsatisfactory performance; discharge certificates

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulations:
48646 Synthetic natural gas (SNG) feedstock allocation; price-decontrolled naphta exemption and removal of restrictive criteria on propane
NOTICES
Consent orders:
48689 Las Olas Chevron et al.
Electric energy transmission; exports to Canada or Mexico; authorizations, permits, etc.:
48690 Jersey Central Power & Light Co.
Motor gasoline; multiple allocation fractions; applications, etc.:
48690 Powerine Oil Co.
48693 Sun Co., Inc.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
48684, 48686 Austin, Tex., et al. (2 documents)
48692 Modesto Irrigation District

Remedial orders:
48694 Ven Fuel, Inc.

Energy Department
See also Bonneville Power Administration; Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
RULES
48577 Oil; administrative procedures and sanctions: Crude oil, newly discovered, ceiling price rule, clarification

Energy Information Administrative
NOTICES
48694 Alternative fuel price ceilings and high cost natural gas incremental price threshold

Environmental Protection Agency
RULES
48820 Permit programs, consolidated; definition of "waters of the United States"; suspension
PROPOSED RULES
Air pollution control; new motor vehicles and engines:
48812 Importation
NOTICES
Pesticides; emergency exemption applications:
48703 Acephate
48710 Carbofuran
48709 Ethylene dibromide
48700–48702, 48708 Fenvalerate (4 documents)
48702 Methomyl
Water pollution control:
48704 Phosphate; conventional pollutant list; petition; inquiry

Equal Employment Opportunity Commission
RULES
Procedural regulations:
48614 Reconsideration of previously issued determinations of reasonable cause or dismissals of charges; interim rule and request for comments

Federal Aviation Administration
RULES
Air carriers certification and operations:
48599 Flightcrew training in advanced flight training simulators; correction
Airworthiness directives:
48597 Cessna
48596 Rosemount, Inc.
48595 Slingsby
48598 Control zones (2 documents)
PROPOSED RULES
Airworthiness directives:
48649 Petition for rulemaking; McDonnell-Douglas DC–10 series aircraft
48651 Control zones and transition areas
48651, 48653 Transition areas (3 documents)
NOTICES
48759 Regulatory Interpretation Docket; establishment

Federal Deposit Insurance Corporation
RULES
48579 Practice and procedure rules

Federal Emergency Management Agency
RULES
Flood insurance; special hazard areas:
48629 Arizona et al.
NOTICES
48711 Flood insurance, mandatory purchase guidelines; Map Information Facility establishment

Federal Energy Regulatory Commission
NOTICES
48765 Meetings; Sunshine Act

Federal Financial Institutions Examination Council
NOTICES
48712 Truth in Lending Act (Regulation Z); restitution provisions, enforcement; policy statement

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
48714 Dominion Federal Savings & Loan Association
48714 First Federal Savings & Loan Association
48715 Home Federal Savings & Loan Association
48715 Interamerican Federal Savings & Loan Association
48715 Mission Savings Association
48715 Mutual Savings & Loan Association
48715 Victoria Federal Savings & Loan Association
48765 Meetings; Sunshine Act

Federal Labor Relations Authority
RULES
48575 Negotiability issues, expedited review; issuance of orders and compliance actions

Federal Mine Safety and Health Review Commission
NOTICES
48765 Meetings; Sunshine Act

Federal Procurement Policy Office
PROPOSED RULES
Federal Acquisition Regulation (FAR):
48667 Government surveillance requirements, waiver; availability of draft and inquiry

Federal Register Office
NOTICES
48715 Consumer programs, implementation; subject listing and workshop

Federal Reserve System
NOTICES
Applications, etc.:
48716 Amador Bancshares, Inc.
48716 Browns Valley Bancshares, Inc.
48716 Central Bancorp Inc.
48717 R & B Management Corp.
48717 Swanton Agency, Inc.
48765 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
48606 Dancer-Fitzgerald-Sample, Inc.

Fish and Wildlife Service
PROPOSED RULES
Endangered species convention:
48830 Appendices; U.S. proposals to amend
48677 Parson finch; proposed addition to Appendix II; etc.

Forest Service
PROPOSED RULES
48663 Experimental areas and research natural areas; review of existing regulations
NOTICES
Environmental statements; availability, etc:
48680 Shawnee National Forest Land and Resource Management Plan, Ill.

General Services Administration
See Federal Register Office.

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See Center for Disease Control; Health Care Financing Administration; Public Health Service.

Health Care Financing Administration
RULES
Professional standards review:
48620 Area designations, California

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
48696 Decisions and orders
Remedial orders:
48697, 48699 Objections filed (2 documents)

Heritage Conservation and Recreation Service
NOTICES
48717 World heritage properties list; U.S. nominations inventory

Housing and Urban Development Department
PROPOSED RULES
Low income housing:
48654 Elderly or handicapped housing loans (section 202); cost limits; Congressional waiver request
48654 Privacy Act; implementation

Interior Department
See Fish and Wildlife Service; Heritage Conservation and Recreation Service; Land Management Bureau; Surface Mining Office.

International Trade Administration
RULES
Contervailing duties:
48607 Fasteners from India
48606 Joint export associations; CFR Part removed

International Trade Commission
NOTICES
Import investigations:
48751 Cathode sputter coated glass transparencies

Interstate Commerce Commission
RULES
Motor carriers:
48794 Ex-air motor traffic, exemption; deletion
Organization, functions, and authority delegations:
48631 Office of Special Counsel
Practice and procedure:
48792 Appellate procedures; interim rule and request for comments
48794 Appellate procedures; interim rule and request for comments; extension of time
Railroad car service orders; various companies:
48634 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
48631 Chicago, Rock Island & Pacific Railroad Co.
48636 Indian Creek Railroad Co.
PROPOSED RULES
Motor carriers:
48796 Pooling agreements; application contents and procedures; policy statement
Rail carriers:
48676 Minimum rates; interpretation of statutory provisions
NOTICES
48718, 48719 Long and short haul applications for relief (3 documents)
Motor carriers:
48718 Fuel costs recovery, expedited procedures
48719 Temporary authority applications

Justice Department
See National Institute of Corrections; Parole Commission.

Land Management Bureau
RULES
Public land orders:
48629 Idaho

Management and Budget Office
See also Federal Procurement Policy Office.
NOTICES
48755 Agency forms under review
Improving Government regulations:
48755 Semiannual agenda for directives; publication delay

National Bureau of Standards
NOTICES
48680 Government commercial or industrial activities; review schedule (OMBA–76 implementation)

National Credit Union Administration
NOTICES
48765, 48766 Meetings; Sunshine Act (2 documents)

National Institute of Corrections
NOTICES
Grants solicitations:
48751 Training and consulting project

National Highway Traffic Safety Administration
48759 Defect investigations regarding 1970–1979 Ford Motor Co.—vehicles equipped with automatic transmissions, 7–21–80

National Oceanic and Atmospheric Administration
RULES
Tuna, Atlantic fisheries:
48637 Bluefin tuna; correction
NOTICES
Marine mammal permit applications, etc.:
48682 Adriatic Sea World S.N.C.
48682 American Cetacean Society
48682 Dolfirodam B.V.
48681 Outer Continental Shelf; oil and gas exploration, development, or production; Fisherman's Contingency Fund, claims notification

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
48754 Detroit Edison Co.
48754 Portland General Electric Co. et al.
Meetings:
48753 Lawyer Vacancies on Licensing Board Panel Screening Committee
48754 Reactor Safeguards Advisory Committee
48766 Meetings; Sunshine Act

Parole Commission
NOTICES
48766 Meetings; Sunshine Act (2 documents)

Postal Rate Commission
PROPOSED RULES
48663 Practice and procedure rules

Postal Service
RULES
Domestic Mail Manual:
48619 Poisons and controlled substances; registered mail requirement; deletion

Public Health Service
RULES
Grants:
48623 Allied health projects
PROPOSED RULES
Health planning and resources development:
48667 State medical facilities plan; withdrawal

Research and Special Programs Administration, Transportation Department
RULES
Hazardous materials:
48631 Exemptions, individual; conversion into rules of general applicability; correction
PROPOSED RULES
48668, 48671 Shippers; specifications for tank cars (2 documents)
NOTICES
Hazardous materials:
48759, 48760 Applications; exemptions, renewals, etc. (2 documents)

Saint Lawrence Seaway Development Corporation
NOTICES
Meetings:
48761 Advisory Board

Securities and Exchange Commission
NOTICES
Hearings, etc.:
48756 American Electric Power Co., Inc., et al.

Small Business Administration
NOTICES
Applications, etc.:
48757 Continental Investors, Inc.
Disaster areas:
48758 Kansas
48758 New York
48758 Ohio
48758 Washington

Surface Mining Office
PROPOSED RULES
Coal exploration on non-Federal and non-Indian lands; Federal program regulations, various States:
48661 Massachusetts et al.

Tennessee Valley Authority
NOTICES
48766 Meetings; Sunshine Act

Trade Representative, Office of United States
NOTICES
Import relief investigations; determinations:
48758 Egg albumin from United States to European Community; terminated

Transportation Department
See also Coast Guard; Federal Aviation Administration; Research and Special Programs Administration, Transportation Department.
RULES
Organization, functions, and authority delegations:
48630 Saint Lawrence Seaway Development Corporation, Administrator; Port and Tanker Safety Act, procedural functions

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Customs Service.
NOTICES
Notes, Treasury:
48762 U-1982 series

Water Resources Council
PROPOSED RULES
48800 State water management planning program; guidelines

MEETINGS ANNOUNCED IN THIS ISSUE

CIVIL RIGHTS COMMISSION
48680 Arizona Advisory Committee, 8-23-80

NUCLEAR REGULATORY COMMISSION
48753 Screening Committee for Lawyer Vacancies on the Licensing Board Panel, 7-23-80
48754 Three Mile Island Nuclear Power Plant.—Unit No. 1 Advisory Committee on Reactor Safeguards, 8-5 and 8-6-80

TRANSPORTATION DEPARTMENT
Saint Lawrence Seaway Development Corporation—
48761 Advisory Board, 8–8–80

HEARINGS

ENERGY DEPARTMENT
Economic Regulatory Administration—
48646 Synthetic Natural Gas (SNG) Feedstock Allocation Regulations, 8–26–80

WATER RESOURCES COUNCIL
48800 State Water Management Planning Program, 8–22, 8–26 and 8–28–80

POSTPONED HEARING TRANSPORTATION DEPARTMENT
48759 National Highway Traffic Safety Administration—Defect investigation regarding 1970–1979 Ford Motor Co.—vehicles equipped with automatic transportation, 7–21–80

WORKSHOPS

GENERAL SERVICES ADMINISTRATION
Office of the Federal Register—
48715 Consumer Subject Listing, 7–29–80

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

4 CFR
417 48753

5 CFR
2424 48575

7 CFR
2 48575
947 48575
Proposed Rules:
1007 48638

10 CFR
Ch. II 48577
Proposed Rules:
210 48646
211 48646

12 CFR
308 48579

14 CFR
39 (3 documents) 48595–49597
71 (2 documents) 48598
121 48599
253 48599
399 (2 documents) 48600
Proposed Rules:
Ch. I 48649
71 (4 documents) 48651–48653
399 48654

15 CFR
366 48606

16 CFR
13 48606

18 CFR
Proposed Rules:
703 48800
740 48800

19 CFR
355 48607
Proposed Rules:
12 48817

24 CFR
Proposed Rules:
16 48654
885 48654

27 CFR
296 48609

29 CFR
1601 48614

30 CFR
Proposed Rules:
921 48661
922 48661
937 48661
939 48661

32 CFR
100 48618

33 CFR
117 (3 documents) 48618, 48619
161 48822
Proposed Rules:
110 48662
161 (2 documents) 48826, 48827

36 CFR
Proposed Rules:
251 48663

39 CFR
Proposed Rules:
3001 48663

40 CFR
122 48620
Proposed Rules:
85 48812

42 CFR
51b 48622
58 48623
72 48626
460 48620
Proposed Rules:
124 48667

43 CFR
5734 48629

44 CFR
65 48629

48 CFR
Proposed Rules:
Subpart 42.9 48667

49 CFR
1 48630
172 48631
173 48631
178 48631
1011 48631
1033 (3 documents) 48631, 48632, 48636
1100 (2 documents) 48792
Proposed Rules:
Ch. X (2 documents) 48676, 48796
173 (2 documents) 48668, 48671
179 (2 documents) 48668, 48671

50 CFR
285 48637
Proposed Rules:
23 (2 documents) 48677, 48830

Rules and Regulations

Federal Register
Vol. 45, No. 141
Monday, July 21, 1980

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.

COST ACCOUNTING STANDARDS BOARD

4 CFR Part 417

Cost of Money as an Element of the Cost of Capital Assets Under Construction

AGENCY: Cost Accounting Standards Board.

ACTION: Final rule.

SUMMARY: The Cost Accounting Standards Board is Promulgating Cost Accounting Standard No. 417, one of the series of Standards being issued pursuant to section 719 of the Defense Production Act of 1950, as amended (Pub. L. 91–379, 50 U.S.C. App. 2168).

This Standard provides for the determination of an imputed cost of money to be included in the capitalized cost of acquisition of assets developed, fabricated or constructed for a contractor's own use. Application of this Standard will provide increased uniformity in accounting for the acquisition costs of assets.

EFFECTIVE DATE: December 15, 1980.

FOR FURTHER INFORMATION CONTACT: Paul R. McClenon, Project Director, Cost Accounting Standards Board, 441 G Street, NW, Room 4836, Washington, D.C. 20548. (202) 275–5537.

SUPPLEMENTARY INFORMATION:

(1) Background

Cost Accounting Standard (CAS) 417 being promulgated today is based on the same concept as CAS 414, which provides criteria for the measurement and allocation of the cost of money as a part of the cost of tangible and intangible capital assets. CAS 417 provides guidance for the measurement of the cost of money as an element of the cost of capital assets under construction. A proposed Standard on this topic, designated CAS 421, was published in the Federal Register on January 4, 1980. The Board received 36 letters of comment on that proposal and takes this opportunity to express its appreciation for the many helpful suggestions and constructive criticisms that were received.

(2) Need for a Standard

Most commentators favored the January 1980 proposal. Those who opposed it did so on the basis that they did not favor Standard No. 414 and do not favor any extension of the principle of that Standard. The Board, in promulgating CAS 414, provided for an important element of contract cost, that of the cost of money related to investment in facilities used in contract performance. Contractor investments committed to facilities not yet in service involve a similar economic cost. The Board believes that this Standard is an appropriate extension of the concept.

(3) Proposals to amend CAS 414

A number of contractors suggested that instead of capitalizing cost of money, it should be treated as a current cost and therefore an amendment should be made to CAS 414 to recognize this cost on current contracts. The Board believes that capitalization of cost of money, in contrast to the immediate recognition of cost of money as a contract cost, will place such costs on the same basis as other construction costs and thus provide for the total cost of new assets to be charged to output of the periods when they are used in the production of goods and services.

(4) Capitalization of paid interest

The proposed Standard No. 421 provided an option to capitalize either cost of money computed in accordance with the provisions of the Standard or the amount capitalized for financial accounting and reporting purposes pursuant to FAS No. 34. This option was offered in order to simplify the record-keeping procedures as it would have enabled the contractor to avoid a duplicate set of records—one for financial accounting and the other for Government contract costing purposes.

A number of Government agencies disagreed with this approach. It was pointed out that no true compatibility exists between FAS No. 34 and the proposed CAS 421 since the former specifically prohibits recognition of any type of imputed interest cost for capitalization purposes. It was also stated that the option to elect between the two methods of capitalization in the proposed CAS 421 would lead to inconsistent capitalization practices among contractors. Furthermore, it was pointed out that paid interest is an unallowable cost under pertinent procurement regulations. One major agency pointed out that if the Standard were to allow the choice as proposed, any contractor making the election to capitalize interest actually paid "* * * will have such costs disallowed when included in depreciation subsequently claimed as a cost under Government contracts." Such disallowance would effectively nullify the option.

In view of these comments by Government procurement agencies the Board has concluded that it would be futile at this time to proceed with the unrestricted option that permits capitalization of the amount capitalized for financial accounting and reporting purposes. The Standard, as promulgated, permits only capitalization of cost of money computed in accordance with the provisions of this Standard, or the amount used for financial reporting where it is not a materially different amount.

(5) One-Year Limitation

The proposed Standard required that in order to capitalize cost of money the construction or fabrication effort must be sustained at least for one year. This provision was based on the belief that administrative costs would typically be higher than the benefits to be expected from capitalization of cost of money for minor projects. Numerous commentators pointed out that irrespective of any administrative costs the cost of money could be quite material on a project lasting less than a year. The Board agrees with this view and has eliminated the restriction on the length of the construction period. The Board expects that contractors will apply the Standard where the benefits to be derived from improved cost measurement and allocation can be expected to outweigh the costs of implementation.

(6) Computation of the "representative investment amount"

Some commentators questioned whether there are any constraints imposed on the methods that may be

used for determining the "representative investment amount." The Standard specifies in § 417.50(a)(ii) [previously designated as § 421.50(e)] only that the method selected should give appropriate consideration to the "rate at which costs of construction are incurred."

The wording in illustrations § 417.60 (a) and (b) has been changed to demonstrate more clearly when the use of beginning and ending balances of a cost accounting period is appropriate. If major fluctuations are expected in the rate of cost incurrence, averaging of balances for shorter time periods, such as months, is appropriate.

(7) Applicability

The proposed Standard was to be applied only to those assets on which construction began after the Standard became applicable. Several commentators pointed out the desirability of immediate application with respect to all assets under construction.

The wording in § 417.80 has been changed to extend the coverage to all the assets under construction at the time when the Standard is first applied by the contractor.

(8) Costs and Benefits

The Board recognizes that there are economic costs related to a contractor's investment in the construction period for assets subject to this Standard. The cost, even though imputed, is real and is relevant for the contract costing. It has heretofore not been a part of contract costing. This Standard provides for its measurement and therefore will improve the quality of cost ascertainment on contracts where the assets are used.

Limitation on the option to use, for contract costing, the amounts capitalized under FAS 34 may impose certain administrative costs for some contractors. The Board is persuaded that these costs, in general, will not be significant, and they are surely outweighed by the benefit of more consistent contract cost measurement which will be derived from the operation of this Standard.

Title 4 CFR Chapter III is amended by adding a new part 417 to read as follows:

PART 417—COST OF MONEY AS AN ELEMENT OF THE COST OF CAPITAL ASSETS UNDER CONSTRUCTION

Sec.

417.10 General applicability.
417.20 Purpose.
417.30 Definitions.
417.40 Fundamental requirement.
417.50 Techniques for application.
417.60 Illustrations.
417.70 Exemptions.
417.80 Effective date.

Authority: Sec. 719 of the Defense Production Act of 1950, as amended (Pub. L. 91–379, 50 U.S.C. App. 2168).

§ 417.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts (4 CFR 331.30).

§ 417.20 Purpose.

The purpose of this Cost Accounting Standard is to establish criteria for the measurement of the cost of money attributable to capital assets under construction, fabrication or development as an element of the cost of those assets. Consistent application of these criteria will improve cost measurement by providing for recognition of cost of contractor investment in assets under construction, and will provide greater uniformity in accounting for asset acquisition costs.

§ 417.30 Definitions.

(a) The following definitions of terms which are prominent in this Standard are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this Standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in paragraph (b) of this section.

(1) *Intangible Capital Asset.* An asset that has no physical substance, has more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the benefits it yields.

(2) *Tangible Capital Assets.* An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the services it yields.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable to this Standard: None.

§ 417.40 Fundamental requirement.

The cost of money applicable to the investment in tangible and intangible capital assets being constructed, fabricated or developed for a contractor's own use shall be included in the capitalized acquisition cost of such assets.

§ 417.50 Techniques for application.

(a) The cost of money for an asset shall be calculated as follows:

(1) The cost of money rate used shall be based on interest rates determined by the Secretary of the Treasury pursuant to Public Law 92–41 (85 Stat. 97).

(2) A representative investment amount shall be determined each cost accounting period for each capital asset being constructed, fabricated or developed giving appropriate consideration to the rate at which costs of construction are incurred.

(3) Other methods for calculating the cost of money to be capitalized, such as the method used for financial accounting and reporting, may be used, provided the resulting amount does not differ materially from the amount calculated by use of paragraphs (a) (1) and (2), of this section.

(b) If substantially all the activities necessary to get the asset ready for its intended use are discontinued, cost of money shall not be capitalized for the period of discontinuance. However, if such discontinuance arises out of causes beyond the control and without the fault or negligence of the contractor, cessation of cost of money capitalization is not required.

§ 417.60 Illustrations.

(a) A contractor decided to build a major addition to his plant using both his own labor and outside subcontractors. It took 13 months to complete the building. The first 10 months of the construction period were in one cost accounting period. At the end of the cost accounting period the total charges, including cost of money computed in accordance with 4 CFR 414, accumulated in the construction-in-progress account for this project amounted to $750,000. However, most of these construction costs were incurred towards the end of the cost accounting period. In developing a method for determining a representative investment amount appropriate consideration must be given to the rate at which costs have been incurred in accordance with § 417.50(a)(ii). Therefore, the contractor averaged the 10 month-end balances and determined that the average investment in the project was $245,000. Two cost of money rates were in effect during the 10-month period; their time-weighted average was determined to be 8.6%. Application of the 8.6% rate for 10/12 of a year to the representative balance of $245,000 resulted in the determination that $17,448 should be added to the construction-in-progress account in recognition of the cost of

money related to this project in its first cost accounting period. The project was completed with the addition of $750,000 of additional costs during the first three months of the subsequent cost accounting period. The contractor considered the three month-end balances (which included the $17,558 capitalized cost of money described in the preceding paragraph) and determined that the representative balance was $1,234,000. The cost of money rate in effect during this three-month period was 7.75%. Applying the rate of 7.75% for ¼ of a year to the balance of $1,234,000 resulted in a determination that $23,909 should be added to the construction-in-progress account in recognition of the cost of money while under construction in the second cost accounting period. The capitalized project was put into service at the recognized cost of acquisition of $1,541,467 which consists of the "regular" costs of $1,500,000 plus $17,558 and $23,909 cost of money. This practice is in accordance with $417.50(a) and other applicable provisions of the Standard.

Note.—An alternative technique would be to make separate calculations, using an appropriate investment amount and cost of money rate, for each month. The sum of the monthly cost of money amounts could be entered in the construction-in-progress account once each cost accounting period.

(b) A contractor built a major addition with identical basic data to those described in § 417.60(a) except that the costs were incurred at a fairly uniform rate throughout the period. Because of the pattern of cost incurrence the contractor used beginning and ending balances of the cost accounting period to find the representative amounts. For the first cost accounting period the representative investment amount was the average of the beginning and ending balances (zero and $750,000), or $375,000. Application of the average interest rate of 8.6% for $^{1}\!/_{12}$ of a year resulted in the determination that $26,875 should be added to the construction-in-progress account in recognition of the cost of money related to this project in its first cost accounting period. During the subsequent three months the contractor used the representative balance of $1,151,875, derived by averaging the beginning balance of $776,875 ($750,000 "regular" cost plus the $26,875 imputed cost from the prior period) and the balance at the end, $1,526,875. Applying the 7.75% cost of money rate to this balance for a three-month period resulted in a determination that $22,317 should be added to the construction-in-progress account in recognition of the cost of money while under construction in the second cost accounting period. The capitalized project was put into service at the recognized cost of acquisition of $1,549,192 which consists of the "regular" costs of $1,500,000 plus $26,875 and $22,317 imputed cost of money. This practice is in accordance with § 417.50(a) and other applicable provisions of the Standard.

Note.—If this contractor, acting in accordance with established Standards for financial accounting, allocated a portion of its paid interest expense to this construction project and the resultant acquisition cost for financial reporting purposes was not materially different from $1,549,192, the contractor could, in accordance with § 417.50(a)(iii), use the same acquisition cost for contract costing purposes.

§ 417.70 Exemptions.

None for this Standard.

§ 417.80 Effective date.

(a) The effective date of this Cost Accounting Standard is December 15, 1980.

(b) This Cost Accounting Standard shall be followed by each contractor on or after the start of his next cost accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

Nelson H. Shapiro,

Executive Secretary.

[FR Doc. 80-21808 Filed 7-18-80; 8:45 am]

BILLING CODE 1620-01-M

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2424

Expedited Review of Negotiability Issues

AGENCY: Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority, and Federal Service Impasses Panel.

ACTION: Amendment of rules and regulations.

SUMMARY: This amendment of the rules and regulations expressly provides for the issuance of orders and for the taking of compliance actions by the Authority in negotiability dispute cases filed under section 7117 of the Federal Service Labor-Management Relations Statute (5 U.S.C. 7117).

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Samuel A. Chaitovitz, Executive Director, (202) 254-9595.

SUPPLEMENTARY INFORMATION: Subpart A of Part 2424 of the present rules and regulations of the Authority, General Counsel, and Panel (45 FR 3511) establishes the procedures for the expedited processing of negotiability dispute cases; that is, cases in which an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to a matter proposed to be bargained, and the exclusive representative appeals to the Authority from this allegation of the agency as prescribed in 5 U.S.C. 7117 (b) and (c).

Section 2424.10 of Subpart A of Part 2424 (45 FR 3513) provides that the Authority shall expedite such negotiability proceedings, and that, at the earliest practicable date, the Authority shall issue a written decision on the allegation of the agency. Since the adoption of these rules and regulations, and particularly § 2424.10 thereof, questions have been raised by agencies and labor organizations relating to the nature of the obligations of the parties under negotiability decisions issued by the Authority.

On April 14, 1980, a proposed amendment of the rules and regulations was published in the **Federal Register** (45 FR 25067), amplifying § 2424.10 by expressly providing therein for the issuance of orders and for the taking of compliance actions by the Authority in negotiability dispute cases filed under 5 U.S.C. 7117. Interested persons were given until May 30, 1980, to submit written comments on the proposed amendment.

Five written comments were received regarding the proposed amendment: two from labor organizations and three from agencies. Four commenters substantially supported the proposed amendment, while one believed the proposed amendment was unwarranted.

Upon careful consideration of the comments, the Authority reaffirms its determination that amplification of § 2424.10 is essential to resolve the questions raised by agencies and labor organizations concerning the nature of the obligations of the parties under negotiability decisions issued by the Authority. However, the proposed amendment has been adopted with one suggested change, namely, the addition of the parenthetical phrase "(or as otherwise agreed to by the parties)", after the reference to the affirmative order to bargain "upon request", in subsections (b) and (c) of § 2424.10. This

revision takes into account those situations where the parties have agreed as to the particular time when bargaining will take place after the issuance of a dispositive ruling by the Authority in a negotiability dispute case.

The remaining suggested changes were not adopted because either they did not appear relevant to the subject amendment or they were unsupported by persuasive reasons for further revision of the amendment.

Accordingly, § 2424.10 of Subpart A of Part 2424 of the rules and regulations is amended to read as follows:

PART 2424—EXPEDITED REVIEW OF NEGOTIABILITY ISSUES

Subpart A—Instituting an Appeal

§ 2424.10 Authority decision and order; compliance

(a) Subject to the requirements of this subpart the Authority shall expedite proceedings under this part to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.

(b) If the Authority finds that the duty to bargain extends to the matter proposed to be bargained, the decision of the Authority shall include an order that the agency shall upon request (or as otherwise agreed to by the parties) bargain concerning such matter. If the Authority finds that the duty to bargain does not extend to the matter proposed to be negotiated, the Authority shall so state and issue an order dismissing the petition for review of the negotiability issue. If the Authority finds that the duty to bargain extends to the matter proposed to be bargained only at the election of the agency, the Authority shall so state and issue an order dismissing the petition for review of the negotiability issue.

(c) When an order is issued as provided in paragraph (b) of this section, the agency or exclusive representative shall report to the appropriate Regional Director within a specified period. Failure to comply with an order that the agency shall upon request (or as otherwise agreed to by the parties) bargain concerning the disputed matter. If the Authority finds such a failure to comply with its order, the Authority shall take whatever action it deems necessary, including enforcement under 5 U.S.C. 7123(b).

(5 U.S.C. 7134)

Federal Labor Relations Authority.

Dated: July 16, 1980.

Ronald W. Haughton,

Chairman.

Henry B. Frazier III,

Member.

Leon B. Applewhaite,

Member.

S. Jesse Reuben,

Deputy General Counsel.

[FR Doc. 80-21718 Filed 7-18-80; 8:45 am]

BILLING CODE 6325-19-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary and the General Officers of the Department to reflect the establishment of the Office of Consumer Affairs.

EFFECTIVE DATE: July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Neill Schaller, Director, Office of Consumer Affairs, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3961.

SUPPLEMENTARY INFORMATION: The Department of Agriculture is establishing an Office of Consumer Affairs, which will provide oversight for consumer involvement in USDA programs and assure that consumer complaints are appropriately and efficiently handled. The public was afforded an opportunity to comment on the Department's proposal to establish an Office of Consumer Affairs in 44 FR 71148. Based on comments received, the decision was made to establish that Office. The Department's Final Consumer Affairs Plan was published in the Federal Register on June 9, 1980.

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICER OF THE DEPARTMENT

Accordingly, 7 CFR Part 2 is amended as follows:

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

1. A new § 2.43 is added as follows:

§ 2.43 Director, Office of Consumer Affairs.

The following delegations of authority are made by the Secretary of Agriculture to the Director of the Office of Consumer Affairs.

(a) Develop and implement USDA policy and procedural guidelines for carrying out the Department's Consumer Affairs Plan.

(b) Advise the Secretary and other policy level officials of the Department on consumer affairs policies and programs.

(c) Coordinate USDA consumer affairs activities and monitor and analyze agency procedures and performance.

(d) Represent the Department at conferences, meetings and other contacts where consumer affairs issues are discussed, including liaison with the White House and other governmental agencies and departments.

(e) Work with the Office of Budget, Planning and Evaluation and the Office of Governmental and Public Affairs to ensure coordination of USDA consumer affairs and public participation programs, policies and information, and to prevent duplication of responsibilities.

(f) Serve as a consumer ombudsman and communication link between consumers and the Department.

(g) Approve the designation of agency Consumer Affairs Contacts.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

Dated: July 16, 1980.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 80-21619 Filed 7-18-80; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 947

Irish Potatoes Grown in Modoc and Siskiyou Counties in California and in all Counties in Oregon Except Malheur County; Approval of Amendment No. 1 To Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final amendment.

SUMMARY: This amendment reduces the minimum size requirement for Oregon-California potatoes. This should permit orderly marketing by increasing the supply available consistent with market conditions.

EFFECTIVE DATE: July 21, 1980.

FOR FURTHER INFORMATION CONTACT:
C. W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2615. The Impact Analysis is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Findings. (a) Pursuant to Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR Part 947), regulating the handling of Irish potatoes grown in the production area defined therein, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and upon the basis of recommendations and information submitted by the Oregon-California Potato Committee, established pursuant to the said marketing agreement and order, and other available information, it is hereby found that the amendment to handling regulation hereinafter set forth, will tend to effectuate the declared policy of the act.

The amendment will reduce the minimum size requirements for fresh market potatoes shipped from Districts 1 through 4 to 1⅞ inches in diameter from 2 inches in diameter or 4 ounces in weight.

In District No. 5 the size requirements for all potatoes will continue to be 2 inches minimum diameter or 4 ounces minimum weight. The size reduction for potatoes recommended by the Oregon-California Potato Committee will promote orderly marketing by increasing the volume of production area potatoes available for fresh market shipment consistent with the current and indicated marketing conditions.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the effective period, (2) compliance with this amendment will not require any special preparation on the part of handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of production area potatoes shipped to the fresh market.

Paragraph (b) of Handling Regulation (44 FR 41171 and 46250) is amended to read as follows:

§ 947.338 Handling regulation.

* * * * *

(b) *Minimum size requirements.* (1) For Export: All varieties—1½ inches in diameter.

(2) For Districts No. 1 through 4: (i) All Varieties—1⅞ inches in diameter.

(3) For District No. 5: All varieties—2 inches in diameter or 4 ounces in weight.

* * * * *

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

Dated July 16, 1980 to become effective July 21, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-21820 Filed 7-18-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Ch. II

Clarifications to the Newly Discovered Crude Oil Ceiling Price Rule

AGENCY: Department of Energy.

ACTION: Ruling.

SUMMARY: The appended Ruling is issued by the Department of Energy (DOE) Office of General Counsel pursuant to 10 CFR 205.150 to clarify the meanings of the terms "property" and "produced" with respect to the newly discovered crude oil ceiling price rule set forth at 10 CFR 212.79. A written comment of objection to the appended Ruling may be filed at any time with the DOE Office of General Counsel pursuant to the provisions of 10 CFR 205.153.

FOR FURTHER INFORMATION CONTACT:
Lynette Charboneau, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 5E052 Forrestal Bldg., Washington, D.C. 20585, (202) 252–2931.

Issued in Washington, D.C.

Dated: July 14, 1980.

Lona L. Feldman,

Acting Assistant General Counsel for Interpretations and Rulings.

10 CFR is amended by adding to the Rulings appearing at the end of Chapter II the following Ruling 1980–3 to read as follows:

Ruling 1980—3

Clarifications to the Newly Discovered Crude Oil Ceiling Price Rule

On April 27, 1979, the Department of Energy (DOE) issued a final rule which provides in 10 CFR 212.79 that, effective June 1, 1979, first sales of "newly discovered crude oil" are not subject to the ceiling price limitations set forth in 10 CFR Part 212, Subpart D. 44 FR 25828 (May 2, 1979). The newly discovered crude oil ceiling price rule was intended to optimize domestic crude oil production by removing ceiling price limitations from certain domestic crude oil production. Section 212.79 provides in relevant part:

(a) *Rule.* Notwithstanding the provisions of § 212.73(a), first sales of newly discovered crude oil on or after June 1, 1979 are not subject to the ceiling price limitations of this subpart.

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

* * * * *

"Newly discovered crude oil" means domestic crude oil which is: (1) Produced from a new lease on the Outer Continental Shelf; or (2) *produced* (other than from the Outer Continental Shelf) *from a property from which no crude oil was produced in calendar year 1978.* (Emphasis added.)

Inasmuch as numerous inquiries have been received concerning the use of the term "property" in § 212.79, the DOE is concerned that some properties for which this rule was intended to provide production incentives may remain undeveloped. Specifically, some producers are uncertain as to the status under the rule of crude oil produced from a reservoir from which no crude oil was produced in calendar year 1978, where the particular reservoir had not been designated as a separate property during 1978. Some requests for interpretation have suggested that the DOE interpret the newly discovered crude oil rule in a manner contrary to the express language of the rule. For example, some producers have asserted a right to certify as "newly discovered" the crude oil production of properties from which crude oil was in fact "produced" during calendar year 1978, based upon an erroneous interpretation of the term "produced." Accordingly, we are issuing this Ruling to clarify the meanings of the terms "property" and "produced" with respect to the newly discovered crude oil ceiling price rule.

I. Application of the Definition of "Property"

The incentive price for newly discovered crude oil is available on a property-by-property basis, and the DOE noted that the definition of "property," as set forth in 10 CFR 212.72 and as clarified by the DOE through rulings, adjudications, and interpretations, would be applicable to the newly discovered crude oil ceiling price rule. 44 FR at 25829, n.2. Prior to September 1976, "property" was defined

in § 212.72 as "the right which arises from a lease or from a fee interest to produce domestic crude oil." The definition of "property" in § 212.72 was amended, effective September 1, 1976, to allow certain separate and distinct producing reservoirs to be treated as separate properties for purposes of the DOE price regulations. "Property" is defined in § 212.72 as follows:

"Property" means the right to produce domestic crude oil, which arises from a lease or from a fee interest. *A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.* (Emphasis added.)

In Ruling 1977–2, 42 FR 4409 (January 25, 1977), the Federal Energy Administration (FEA), a predecessor to the DOE, stated that a separate and distinct producing reservoir subject to the same right to produce as other reservoirs may be designated as a separate property in accordance with § 212.72 at any time on or after September 1, 1976, so long as that designation is given prospective effect only. Ruling 1977–2 reads in pertinent part:

With respect to the treatment of separate reservoirs as separate properties, FEA has not required that such decisions be made immediately for every property. To the contrary, producers are permitted to make separate reservoir determinations at any time or on after September 1, 9176. Of course, post-September 1, 1976 determinations to treat separate reservoirs as separate properties must become effective from the first day of the month in which such a decision is made and may not be applied retroactively beyond the two-month recertification restriction of 10 CFR 212.72. Under no circumstances are such determinations permitted to affect volumes of crude oil produced and sold prior to the September 1, 1976 effective date of the amendment to the definition of property. 42 FR at 4112.

Prior to 1978 a producer may not have designated separate and distinct reservoirs subject to the same right to produce as separate properties. As the DOE did not require that such designations be made within any period of time, there may have been no reason, for example, for a producer to designate as separate properties two separate and distinct reservoirs subject to the same right to produce, where one reservoir had no crude oil production.[1] A producer would benefit from such a designation only after crude oil production was initiated from the reservoir. At that time, designating as a separate property a reservoir from which crude oil had not previously been produced and sold would permit all crude oil production from the reservoir-property to be classified as new crude oil and sold at upper tier ceiling prices. It is such a reservoir—a reservoir for which upper tier ceiling prices were not a sufficient incentive to result in crude oil production—for which the newly discovered crude oil ceiling price rule was expressly intended to provide additional incentives for production.

In an instance where crude oil production is either resumed or initiated from a separate and distinct producing reservoir from which no crude oil was produced in calendar year 1978, a producer is undertaking a financial investment that may involve a high degree of risk as contemplated by the newly discovered crude oil rule. This risk could exist despite that fact that crude oil was produced in calendar year 1978 from a separate and distinct producing reservoir subject to the same right to produce.[2]

* * * * *

Based on our review of the definition of "property," and the clear and express purpose of the price incentive for newly discovered crude oil, we conclude that the incentive applies to reservoir-properties from which no crude oil was produced in 1978, even if those reservoir-properties were not specifically designated as separate properties in 1978. Thus, where no crude oil was produced from a separate and distinct producing reservoir subject to the same right to produce crude oil in calendar year 1978, and where such a reservoir is properly designated as a separate property either before *or* after December 31, 1978, pursuant to § 212.72, as clarified in Ruling 1977–2, the crude oil produced and sold from such a reservoir-property after June 1, 1979, is eligible to be classified as newly discovered crude oil. As stated in Ruling 1977–2, the designation of a separate and distinct producing reservoir as a separate property is not to be applied retroactively to recertify crude oil as "newly discovered" beyond two months or before the recognition of the separate reservoir by the appropriate governmental authorities, and this Ruling does not require or permit any recertification of crude oil that would be otherwise impermissible. 10 CFR 212.72, 212.131.

As discussed above, it is the premises of the property as it existed in calendar year 1978 or as it may have been redesignated in 1978 on a reservoir basis pursuant to 10 CFR Part 212, Subpart D and Ruling 1977–2 that may qualify crude oil production from the property for incentive prices. The newly discovered crude oil ceiling price rule was intended to optimize domestic crude oil production by encouraging production from properties from which no crude oil was produced in calendar year 1978. Accordingly, the rule provides for a one-time determination of a property's eligibility to produce newly discovered crude oil. DOE regulations therefore do not permit rearrangements of rights to produce that may occur after 1978, through pooling, the creation of new drilling or spacing units, or otherwise, to qualify crude oil produced from such a rearranged property as newly discovered. For the newly discovered crude oil ceiling price rule, the standard to be applied to properties based on a rearranged right to produce is not whether crude oil was produced in calendar year 1978 from the physical premises of the property as rearranged, but rather whether these physical premises were part of a property that had crude oil production in calendar year 1978.

II. Meaning of the Term "Produced"

The DOE has also received many inquiries concerning what constitutes a property from which no crude oil was *produced* in calendar year 1978 for purposes of qualifying crude oil production as newly discovered crude oil pursuant to § 212.79. The criterion established by § 212.79(b) is not whether crude oil was produced and sold,

[1] In some instances a crude oil producer is required to designate separate and distinct producing reservoirs as separate properties. Ruling 1977–2 states that once a producer elects to treat a separate reservoir as a separate property, all separate and distinct producing reservoirs subject to the same right to produce must be treated as separate properties.

[2] Indeed, the fact that this financial risk is involved is the basis upon which the DOE, through its predecessor agency the FEA, determined that it was appropriate for a separate and distinct producing reservoir subject to the same right to produce to be designated as a separate property. Ruling 1977–2 noted:

The principal objective in permitting producers to treat separate reservoirs as separate properties is to maximize the incentive to increased production by allowing:

Decisions regarding the exploration for and development of crude oil reserves (to be) made on an individual reservoir basis without regard to the happenstance of production characteristics of other reservoirs underlying the same tract. (41 FR at 36178.)

Therefore, for example, FEA believes that where a producer is faced with the expenditure of large sums of capital to initiate measures designed to increase production from one producing reservoir—or to develop new reserves subject to the same right to produce—the producer should be permitted to measure the benefits of such a decision against the real risks, and should not be required to take into account the production characteristics of other producing entities, *"the production from which is not physically affected by actions taken with respect to the producing entity under consideration."* 42 FR 4112.

produced in commercial quantities [3] or produced pursuant to state production allowables from the property during calendar year 1978. These additional factors were not incorporated into 10 CFR 212.79 and are not relevant to the determination of whether crude oil production from the property may be certified as newly discovered crude oil. The fact that crude oil was produced from a property prior to calendar year 1978 also is not relevant to a determination of whether that property's crude oil production after June 1, 1979, may receive incentive prices where that property had no crude oil production in calendar year 1978.[4]

If crude oil was produced from a property in measurable amounts in calendar year 1978, crude oil production from the property may not be certified and sold as newly discovered crude oil. Even though only 50 barrels of crude oil were produced in well tests from a property in calendar year 1978, for example, crude oil production from the property may not be certified and sold as newly discovered crude oil.

Only crude oil "produced from a property" affects the determination as to whether crude oil may be certified and sold as newly discovered crude oil. In some cases crude oil may be borrowed or purchased from another property and pumped into a well to stimulate production or to prepare the well for operation. The recovery of such oil used to "frac" or "wash" a well on a property does not in itself constitute production of crude oil from that property. Therefore, the recovery of "frac" or "wash" oil from a property in calendar year 1978 that did not produce measurable amounts of crude oil from an underground reservoir does not prevent the property from receiving the benefits of the newly discovered crude oil ceiling price rule.

Issued in Washington, D.C., on July 14, 1980.

Lynn R. Coleman,

General Counsel.

[FR Doc. 80-21793 Filed 7-18-80; 8:45 am]

BILLING CODE 6450-01-M

[3] The proposed regulations for newly discovered crude oil would have permitted crude oil production from a "new reservoir" from which crude oil was not produced in *commercial quantities* prior to January 1, 1979, to qualify for incentive prices without reference to the drilling and distance requirements proposed for other crude oil production. 44 FR at 1889. However, the DOE decided not to adopt the drilling requirements and the corresponding "commercial quantities" language in the final rule on newly discovered crude oil.

A number of producers have filed requests for interpretations with the DOE, contending that the language of the Conference Report to the Crude Oil Windfall Profit Tax Act of 1980, Pub. L. No. 96-223 (April 2, 1980), retroactively amends the DOE's definition of "newly discovered crude oil" in 10 CFR 212.79. While the Windfall Profit Tax Act purports to adopt the meaning of "newly discovered oil" that was "given to such term by the June 1979 energy regulations," the Conference Report notes that for purposes of the windfall profit tax, "newly discovered oil" may be produced and sold from "a property which did not produce oil in commercial quantities," where "production was incident to the drilling of exploratory or test wells and was not part of continuous or commercial production from the property during 1978." Whatever the effect of this language on the meaning of "newly discovered oil" for windfall profit tax purposes, it cannot retroactively change the meaning of the term "newly discovered crude oil" for DOE pricing purposes under § 212.79.

[4] On June 16, 1980, we issued a Notice of Proposed Rulemaking that proposed amendments to the definition of "newly discovered crude oil." 45 FR 42222 (June 23, 1980).

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

Rules of Practice and Procedures

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The new Part revises the Federal Deposit Insurance Corporation's regulations governing the practice and procedures in proceedings brought under Section 8 of the Federal Deposit Insurance Act and under certain other statutes. The Part reorganizes and shortens Part 308 and corrects technical errors.

EFFECTIVE DATE: The amendments are effective July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Werner Goldman, Assistant General Counsel, FDIC (202) 389-4324.

SUPPLEMENTARY INFORMATION: On May 21, 1979, the FDIC issued a policy statement setting forth procedures for improving and simplifying its regulations. The policy statement was adopted to formulate a voluntary program for achieving President Carter's goal for improved government regulations as stated in Executive Order 12044, "Improving Government Regulations" (43 FR 12661). The FDIC has revised Part 308 to comport with its policy statement and Executive Order 12044.

On April 4, 1980, the Federal Deposit Insurance Corporation ("FDIC") published in the **Federal Register** (45 FR 22955) a notice of proposed rulemaking, which would amend the FDIC's rules of practice and procedures in order to reorganize and shorten Part 308 and to correct technical errors. Interested persons were given the opportunity to submit, not later than June 3, 1980, data, views or arguments regarding the proposed amendments. No comments were received by the FDIC.

The changes will not affect the recordkeeping or reporting requirements or the competitive status of insured banks. In view of this, and because the changes to the regulation are technical in nature, the FDIC has concluded that a cost benefit analysis (including a small bank impact statement) regarding the changes is unnecessary. Further, the FDIC finds that the regulation is not amenable to a flexible regulatory approach that distinguishes between banks on the basis of size because it sets forth administrative enforcement procedures which apply equally to all insured banks for due process purposes.

The following modifications were made:

1. Subpart A—Definitions and Rule of Construction

The definitions section incorporates definitions which were formerly in other subparts; and, for clarity, the following additional terms are included: "Board of Directors," "Executive Secretary," "presiding officer," "insured bank" (as defined in Section 3(h) of the Federal Deposit Insurance Act). The term "trustee" has been included in the existing definition of "official."

2. Subpart B—Rules of Practice Applicable to all Hearings

(a) Section 308.06, entitled "Answer," relates only to the answer to the notice of charges. The references to the exceptions to a disapproval of an acquisition of control have been deleted from the section and included in § 308.76.

(b) Section 308.07 relating to the authority of the administrative law judge consolidates references formerly found throughout Subpart B.

(c) Section 308.08 relating to subpenas has been clarified and in addition now contains provisions formerly contained in § 308.52. Section 308.08 also contains a new provision dealing with service on foreign banks, as found in Section 8(r)(5) of the Federal Deposit Insurance Act.

(d) Sections 308.09 and 308.21 relating to depositions and service of papers other than subpenas have been clarified.

(e) Section 308.13 provides that a party to a hearing has 20 days to file proposed findings with the administrative law judge, instead of 15 days as formerly provided.

(f) Section 308.19 relating to the filing of papers with the Executive Secretary of FDIC now provides that four copies of the papers must be filed, instead of seven copies as formerly provided.

(g) Section 308.20 relating to the confidentiality of documents in proceedings now provides that such documents shall be for the confidential use of certain listed persons, unless

otherwise ordered by the Board of Directors or required by law.

(h) The new § 308.22 which deals with computing periods of time now refers to a "Federal" holiday, instead of a legal holiday in the District of Columbia.

3. Subpart C—Rules and Procedures Applicable to Proceedings for the Voluntary Termination of Insured Status

(a) In §§ 308.27 and 308.31 relating to termination of insured status, it has been clarified that Subpart B and the provisions of the Administrative Procedure Act apply to the proceedings.

(b) In §§ 308.30 and 308.31, technical modifications concerning the identification of the banking entity involved have been made to the notice that is sent to depositors regarding the termination of the insured status of a bank or branch.

4. Subpart D—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

(a) Section 308.34 relating to notice given to the State supervisory authority has been included in this subpart. It was formerly in § 308.3.

(b) The effective date of a temporary cease-and-desist order is now correctly restated in § 308.37.

(c) Section 308.32(b)–(c) clarifies that the provisions of Subpart B apply to proceedings described in that section.

(d) Section 308.35 clarifies that the Board of Directors of FDIC, in its discretion, may set a later hearing date in a proceeding relating to cease-and-desist orders.

5. Subpart E—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

Section 308.41 relating to notice given to the State supervisory authority has been included in this subpart. It was formerly in § 308.3. Cross references have been corrected throughout the subpart.

6. Subpart F—Procedures Applicable to Proceedings Pursuant to Section 10(c) of the Federal Depoisit Insurance Act

(a) A new § 308.49, which describes the powers of the presiding officer, has been added. It is derived from former §§ 308.47, 308.49 and 308.50 and is further amended by reference to sections 8(n) and 10(c) of the Federal Deposit Insurance Act.

(b) Section 308.50 relating to the confidentiality of proceedings indicates that documents obtained in the course of proceedings pursuant to Section 10(c) of the Federal Deposit Insurance Act shall be disclosed in accordance with Part 309 of FDIC's rules and regulations, and as otherwise required by law.

(c) Section 308.51(a) now provides that at the discretion of the presiding officer, a witness in a section 10(c) proceeding may obtain a copy of the order initiating the proceeding.

(d) Section 308.53 now clarifies that a transcript of the proceeding is available upon payment of the cost for reproduction.

7. Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties for the Violation of Cease-and-Desist Orders or Certain Federal Statutes

(a) Section 308.71 has been amended to provide for a hearing to commence within 60 days in a proceeding relating to the assessment of civil penalties for violation of cease-and-desist orders and certain other Federal statutes.

(b) Section 308.76 deals with the exceptions that may be filed in response to the reasons given by FDIC for disapproving a proposed acquisition of control of an insured State nonmember bank. The provisions were formerly included in § 308.6.

(c) Section 308.72 now provides that civil penalties assessed pursuant to §§ 308.65, 308.66 and 308.67 are payable and to be collected within the 90-day period after the issuance of the notice of assessment. Formerly, the payment period started to run following the receipt of the notice by the assessed party.

8. Subpart I—Rules and Procedures Applicable to Proceedings Relating to Disapproval of Acquisition of Control

Section 308.77 relating to the disapproval of acquistion of control clarifies that the Board of Directors approves and disapproves such acquisitions by final order.

Accordingly, 12 CFR Part 308 is revised as set forth below.

By Order of the Board of Directors, July 14, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

PART 308—RULES OF PRACTICE AND PROCEDURES

Subpart A—Definitions and Rule of Construction

Sec.
308.01 Definitions.
308.02 Rule of construction.

Subpart B—Rules of Practice Applicable to All Hearings

308.03 Scope.
308.04 Appearance and practice before the Corporation.
308.05 Notice of hearing.
308.06 Answer.
308.07 Conduct of hearings.
308.08 Subpenas.
308.09 Procedure on depositions.
308.10 Payment of witness fees.
308.11 Rules of evidence.
308.12 Motions.
308.13 Proposed findings and conclusions and recommended decision.
308.14 Exceptions to proposed findings and conclusions and recommended decision.
308.15 Briefs.
308.16 Oral argument before the Board of Directors.
308.17 Notice of submission to the Board of Directors.
308.18 Decision of the Board of Directors.
308.19 Filing papers with the Executive Secretary.
308.20 Documents in proceedings confidential.
308.21 Service of papers other than subpenas.
308.22 Computing time.

Subpart C—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

308.23 Scope.
308.24 Notice of finding grounds for termination of insurance.
308.25 Extraterritorial acts of foreign banks or their directors or trustees.
308.26 Failure of a foreign bank to secure removal of personnel.
308.27 Notice of intention to terminate insured status and hearing.
308.28 Order terminating insured status.
308.29 Consent to termination of insured status.
308.30 Notice to depositors of termination of insured status.
308.31 Termination of insured status of bank not engaged in the business of receiving deposits, other than trust funds.

Subpart D—Rules and Procedures Applicable to Proceedings Relating To Cease-and-Desist Orders

308.32 Scope.
308.33 Grounds for cease-and-desist orders.
308.34 Notice to State supervisory authority.
308.35 Notice of charges and of hearing, and consent.
308.36 Issuance and effective date of cease-and-desist order.
308.37 Issuance and effective date of temporary cease-and-desist order.
308.38 Extraterritorial acts of foreign banks or their officials.

Subpart E—Rules and Procedures Applicable to Proceedings Relating To Removal and Suspension Orders

308.39 Scope.
308.40 Grounds for removal or prohibition.
308.41 Notice to State supervisory authority.
308.42 Notice of intention to remove, hearing and consent.
308.43 Issuance and effective date of removal or prohibition order.
308.44 Grounds for suspension or prohibition.

Sec.
308.45 Issuance and effective date of suspension or prohibition order.
308.46 Extraterritorial acts of officials of foreign banks.

Subpart F—Procedures Applicable to Proceedings Pursuant to Section 10(c) of the Federal Deposit Insurance Act

308.47 Scope.
308.48 Order to conduct proceedings.
308.49 Powers of presiding officer.
308.50 Proceedings confidential.
308.51 Rights of witnesses.
308.52 Service of subpena.
308.53 Transcripts.
308.54 Special examinations and examinations of closed banks.

Subpart G—Procedures and Standards Applicable To Suspension, Removal, and Prohibition Where Felony Charged

308.55 Scope.
308.56 Relevant considerations.
308.57 Notice of suspension or prohibition.
308.58 Order of removal or prohibition.
308.59 Notice of opportunity and request for hearing.
308.60 Waiver of hearing.
308.61 Hearing.
308.62 Decision of the Board of Directors.
308.63 Reconsideration by the Board of Directors.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties for the Violation of Cease-and-Desist Orders or Certain Federal Statutes

308.64 Scope.
308.65 Violation of order as ground for assessment.
308.66 Violation of laws limiting dealings with bank officials and affiliates as ground for assessment.
308.67 Violation of laws governing correspondent accounts as ground for assessment.
308.68 Relevant considerations.
308.69 Notice of assessment of civil penalty, and opportunity and request for hearing.
308.70 Waiver of hearing.
308.71 Hearing and order.
308.72 Period for payment of civil penalty.

Subpart I—Rules and Procedures Applicable to Proceedings Relating To Disapproval of Acquisition of Control

308.73 Scope.
308.74 Grounds for disapproval.
308.75 Notice of disapproval, and opportunity and request for hearing.
308.76 Exceptions.
308.77 Hearing and order.

Subpart J—Rules and Procedures Applicable to Proceedings Relating To Assessment of Civil Penalties for Willful Violation of the Change in Bank Control Act

308.78 Scope.
308.79 Notice of intention to assess civil penalty, and opoortunity and request for hearing.
308.80 Waiver of hearing.
308.81 Hearing.
308.82 Assessment.
308.83 Collection.

Subpart K—Rules and Procedures for Imposition of Sanctions Upon Municipal Securities Dealers or Persons Associated With Them, and Upon Clearing Agencies or Transfer Agents

Sec.
308.84 Scope.
308.85 Grounds for imposition of sanctions.
308.86 Notice and consultation with the Securities and Exchange Commission.
308.87 Notice of intention to impose sanctions.
308.88 Hearing.
308.89 Issuance and effective date of order imposing sanctions.

Subpart L—Rules and Procedures Relating to Exemption Proceedings Under Section 12(h) of the Securities Exchange Act of 1934

308.90 Scope.
308.91 Application for exemption.
308.92 Newspaper notice.
308.93 Notice of hearing.
308.94 Hearing.
308.95 Decision of the Board of Directors.

Authority: Sec. 2(9), Pub. L. No. 797, 64 Stat. 881 (12 U.S.C. 1819); Sec. 18, Pub. L. No. 94–29, 89 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L. No. 95–630, 92 Stat. 3641 (12 U.S.C. 1972).

Subpart A—Definitions and Rule of Construction

§ 308.01 Definitions.

For purposes of this part, except where explicitly stated to the contrary,

(a) The term "bank" means, in general, any bank to which reference is being made. For purposes of Subpart F, the term means an insured bank or its affiliate, an institution applying to become an insured bank, or a branch of a foreign bank (except where used in § 308.54);

(b) The term "Board of Directors" or "Board" means the Board of Directors of the Federal Deposit Insurance Corporation;

(c) The term "Corporation" means the Federal Deposit Insurance Corporation;

(d) The term "depositors" as used in Subpart D and § 308.37(a), notwithstanding any limitation in § 308.01, includes participants in a clearing agency and persons doing business with a transfer agent, for both of which the Corporation is the appropriate regulatory agency;

(e) The term "Executive Secretary" means the Executive Secretary of the Federal Deposit Insurance Corporation;

(f) For the purposes of § 308.07(c), the term "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given. This does not include requests for status reports.

(g) The term "foreign bank" means any company which engages in the business of banking and which is organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands. "Foreign bank" includes, without limitations, foreign commercial banks, foreign merchant banks and other institutions which engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(h) The term "insured bank" means any bank or banking institution (including a foreign bank having an insured branch) the deposits of which are insured in accordance with the Federal Deposit Insurance Act;

(i) The term "insured branch" means a branch of a foreign bank any deposits of which are insured in accordance with the Federal Deposit Insurance Act;

(j) The term "insured nonmenber bank" means any bank or banking institution the deposits of which are insured in accordance with the Federal Deposit Insurance Act and which is not a national bank, a District bank, or a member of the Federal Reserve System. The term also includes a foreign bank having an insured branch, and any municipal securities dealer, clearing agency or transfer agent for which the Corporation is the appropriate regulatory agency (notwithstanding any limitation in § 308.01);

(k) For the purposes of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term "officer" as used in Subpart E means an employee or officer who has management functions and the term "director" includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity. For other purposes, the terms "officer" and "director" as used in this part are defined according to common usage in the banking industry;

(l) The term "official" means any director, trustee, officer, employee or agent of a bank to which reference is being made, or any other person participating in the conduct of the affairs of a bank;

(m) The term "party" means a person or agency named or admitted as a party, or any person or agency who has filed a written request and is entitled as of right to be admitted as a party, unless the context otherwise suggests. A person or agency may be admitted for a limited purpose;

(n) For purposes of Subparts I and J, the term "person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship,

unincorporated organization, or any other entity;

(o) The term "presiding officer" means any person designated by the Board of Directors to conduct a hearing, or proceedings pursuant to section 10(c) of the Federal Deposit Insurance Act;

(p) The term "proceedings pursuant to section 10(c)" means the exercise of any power specified in Section 10(c) or 8(n) of the Federal Deposit Insurance Act, or any proceeding conducted pursuant to the exercise of such powers.

§ 308.02 Rule of construction.

Throughout this part, any use of a term in the singular shall include the plural, and the plural shall include the singular, if such use would be appropriate.

Subpart B—Rules of Practice Applicable to All Hearings

§ 308.03 Scope.

This subpart prescribes rules of practice and procedures followed by the Corporation in hearings pursuant to the provisions of the Federal Deposit Insurance Act pertaining to:

(a) Involuntary termination of the insured status of any bank including an insured branch of a foreign bank;

(b) Issuance of cease-and-desist orders against any insured nonmember bank or its official;

(c) Assessment of civil penalties against (1) an insured nonmember bank or its official, for violation of a cease-and-desist order which has become final, or (2) an insured nonmember bank or its official, for violation of (i) the provisions of Section 22(h) or 23A of the Federal Reserve Act, made applicable by Section 18(j) of the Federal Deposit Insurance Act, or (ii) the provisions of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended;

(d) Issuance of orders that remove or suspend from office or prohibit from further participation in the conduct of the affairs of an insured nonmember bank and director or officer, or that prohibit any other person from further participation in the conduct of the affairs of such a bank, except where the removal or suspension or prohibition is within the scope of Subpart G as set forth in § 308.55;

(e) Disapproval of a proposed acquisition of control of an insured nonmember bank; and

(f) Imposition of sanctions upon (1) any municipal securities dealer for which the Corporation is the appropriate regulatory agency, (2) any person associated or seeking to become associated with such a municipal securities dealer, or (3) any clearing agency or transfer agent for which the Corporation is the appropriate regulatory agency (except for hearings on postponement of registration by such clearing agency or transfer agent pending registration denial proceedings, and for hearings on suspension of registration by such clearing agency or transfer agent pending registration revocation proceedings).

§ 308.04 Appearance and practice before the Corporation.

(a) *Qualification, authorization and notice of appearance.* Any member in good standing of the bar of the highest court of any State, Commonwealth, possession, territory, or the District of Columbia, may represent others before the Corporation upon filing with the Executive Secretary a written declaration of current qualification to practice and an authorization to represent the particular party. Any other person desiring to appear before, or transact business with, the Corporation in a representative capacity may be required to file with the Executive Secretary a power of attorney showing authority to act in such capacity, and may be required to demonstrate to the satisfaction of the Board of Directors possession of the requisite qualifications. Attorneys and representatives of parties shall file a written notice of appearance with the Executive Secretary or the administrative law judge.

(b) *Summary suspension.* Contemptuous conduct at an argument before the Board of Directors or at a hearing before an administrative law judge shall be grounds for exclusion and suspension for the duration of the argument or hearing.

§ 308.05 Notice of hearing.

Whenever a hearing within the scope of this subpart is ordered by the Board of Directors, a notice of hearing shall be given by the Executive Secretary (or designee of the Board) to the party afforded the hearing and to any appropriate supervisory authority. The notice shall indicate the time, place, and nature of the hearing, the legal authority and jurisdiction for the hearing, and shall contain a statement of the matters of fact or law constituting the grounds for the hearing. The notice shall be delivered by personal service, by registered or certified mail to the party's last known address, or by other appropriate means, sufficiently in advance of the hearing date to comply with the provisions of the Federal Deposit Insurance Act.

§ 308.06 Answer.

(a) *Filing.* In a notice of hearing issued by the Board of Directors under this part, the Board may direct the party afforded the hearing to file an answer to the allegations contained in the notice. Any party to a proceeding may file an answer with the Executive Secretary within 20 days after service of the notice of hearing upon the party afforded the hearing, unless the Board specifies a different filing period of not less than 10 days after service of the notice. For good cause shown, the Board or the administrative law judge may permit filing of an answer after expiration of the filing period.

(b) *Requirements; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party lacks sufficient information to admit or deny each allegation. A statement of lack of information shall have the effect of a denial. When a party intends to deny part of an allegation, that part shall be denied and the remainder specifically admitted. Any allegation not denied shall be deemed admitted.

(c) *Admitted allegations.* If a party elects not to contest any of the allegations of fact in the notice, the party's answer shall consist of a statement that all of the allegations are admitted to be true. Such an answer shall constitute a waiver of hearing on the facts and allegations contained in the notice. This answer and the notice shall provide a record basis upon which the administrative law judge shall make a recommended decision (containing findings of fact, conclusions of law and proposed order) that shall be filed with the Executive Secretary. The recommended decisions shall be served on the party, who may file exceptions thereto within the time period provided in § 308.14(a).

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed a waiver of the right to appear and contest the allegations of the notice of hearing and shall authorize the administrative law judge, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Executive Secretarty a recommended decision containing such findings and appropriate conclusions.

§ 308.07 Conduct of hearings.

(a) *Selection of administrative law judge.* A hearing within the scope of this subpart shall be held before an administrative law judge selected by the Office of Personnel Management.

(b) *Authority of administrative law judge.* Hearings governed by this

subpart shall be conducted in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 554–557), and the provisions of this subpart. The administrative law judge shall conduct the hearing in a fair and impartial manner and shall avoid delay in the disposition of proceedings. The administrative law judge shall have all powers necessary to that end, including the power:

(1) To administer oaths and affirmations;

(2) To issue subpenas and subpenas duces tecum as authorized by law, and to revoke, quash, or modify any such subpena;

(3) To take depositions or cause depositions to be taken;

(4) To hold conferences for the settlement or simplification of issues or for any other proper purpose;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To receive relevant evidence and rule upon the admission of evidence and offers of proof;

(7) To grant extensions of time for filing or performing any act required or permitted within a specified time during the course of a proceeding for good cause shown;

(8) To continue or adjourn a hearing from time to time and place to place, as permitted by law or as agreed by the parties;

(9) To consider and rule upon all procedural and other motions appropriate in an adversary proceeding, except that an administrative law judge shall not have power to decide any motion to dismiss the proceedings or other motion resulting in final determination of the merits of the proceeding;

(10) To call for the production of further evidence, to permit oral argument and submission of briefs, and to reopen a hearing in accordance with § 308.07(j); and

(11) The administrative law judge shall have all the authority provided in section 556(c) of the Administrative Procedure Act (5 U.S.C. 556(c)), subject to and without limitation upon, the foregoing provisions of § 308.07(b).

(c) *Ex parte communications prohibited.* (1) The following prohibitions against ex parte communications apply from the time a proceeding is noticed for hearing: However, when the person responsible for the communication has knowledge that the proceeding will be noticed, the prohibitions apply from the time such knowledge is acquired.

(i) No interested person outside the Corporation shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to anyone who is or may reasonably be expected to be involved in the decisional process.

(ii) No person who is or may reasonably be expected to be involved in the decisional process shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to any interested person outside the Corporation.

(2) Except as authorized by law, the administrative law judge shall not consult anyone within the Corporation on any fact in issue, unless upon notice and opportunity for all parties to participate. The administrative law judge shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent of the Corporation engaged in the performance of investigative or prosecuting functions. An officer, employee or agent engaged in the performance of such functions in any case shall not, in that case or a factually related case, participate or advise in the decision of the administrative law judge, except as a witness or counsel in the proceedings, or as otherwise authorized by law.

(3) If an ex parte communication is made or knowingly caused to be made, all such written communications, any written responses, and memoranda stating the substance of any oral responses, shall be placed on the public record.

(4) Upon receipt of a communication knowingly made or caused to be made in violation of § 308.07(c)(1)(i), the responsible party may be required to show cause why such party's claim or interest should not be dismissed, denied, or otherwise adversely affected. To the extent consistent with the interests of justice and the policy of the Federal Deposit Insurance Act, knowing violation of § 308.07(c)(1)(i) may be ground for a decision adverse to a party in violation of that section.

(d) *Prehearing conferences.* (1) Upon the initiative of the administrative law judge, or at the request of any party, counsel for all parties may be directed to meet at a specified time and place prior to the hearing, or to make written submissions, for the purpose of considering the following:

(i) Simplification and clarification of the issues;

(ii) Stipulations, admissions of fact, admissions of contents and authenticity of documents;

(iii) Matters of which official notice will be taken; and

(iv) Other matters which may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other exhibits to be introduced in evidence.

(2) At the request of any party, the conference shall be recorded. The administrative law judge shall enter in the record an order reciting the results of the conference, any rulings upon matters considered at the conference, and any directions to the parties. The subsequent course of the proceeding shall be controlled by this order, which may be modified to prevent manifest injustice.

(e) *Attendance at hearings.* A hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings. To the extent authorized by law, the Board of Directors in its discretion may permit other persons to attend on written request by a party or on the Board's own motion, or the Board may order a public hearing.

(f) *Order of procedure.* The counsel for the Corporation shall open and close.

(g) *Transcript of testimony.* Hearings shall be recorded and copies of the transcript made available to any party upon payment of the cost therefor. When the hearing is public, copies of the transcript shall be similarly available to other interested persons.

(h) *Filing and transmittal of the record.* A copy of the transcript duly certified by the reporter, and all exhibits, papers and requests filed in the proceeding, shall be filed with the Executive Secretary, who shall transmit them to the administrative law judge. The Executive Secretary shall promptly serve notice upon all parties of such filing and transmittal.

(i) *Changes of time; change of hearing location; continuance.* Except as otherwise expressly provided by law, the Board of Directors may provide time limits different from those specified in this subpart or in a notice of hearing, upon its own initiative or for good cause shown, and the Board may change the time and place for a hearing to commence. The administrative law judge may continue or adjourn a hearing in accordance with § 308.07(b)(8).

(j) *Reopening of hearing.* The administrative law judge, upon appropriate notice, may reopen a hearing at any time prior to certification of the administrative law judge's recommended decision to the Executive Secretary. The Board of Directors may reopen a case in accordance with § 308.18.

(k) *Opportunity for informal settlement.* At any time, and without prejudice to the rights of the parties, any

interested party may submit to the Executive Secretary for consideration by the Board of Directors, written offers or proposals for settlement of a proceeding. An offer, proposal, or counter-offer shall not be admissible in evidence over the objection of any party. Steps taken toward informal settlement shall not preclude settlement of any proceeding through the regular adjudicatory process by filing an answer or exceptions as provided in § 308.06 and § 308.76, or by submission of the case to the administrative law judge on a stipulation of facts and an agreed order.

§ 308.08 Subpenas.

(a) *Issuance.* The administrative law judge, or the Board of Directors in the event the administrative law judge is unavailable, may issue subpenas or subpenas duces tecum at the request of any party, requiring the attendance or deposition of witnesses or the production of documentary evidence in connection with a hearing pursuant to Subparts B, C, D, E, H, I or K of this part, from any State, Commonwealth or territory at any designated place of hearing. Notice of issuance of the subpena or subpena duces tecum shall be served upon each of the parties within a reasonable time not less than five days before the date fixed for taking the deposition or production of documents.

(1) Where it appears to the administrative law judge or the Board that any subpena may be unreasonable, oppressive, excessive in scope, or unduly burdensome, the party seeking the subpena may be required to show the general relevance and reasonable scope of the testimony or other evidence sought before the subpena is issued. If, after consideration of all circumstances, the administrative law judge or the Board determines the subpena in whole or in part is unreasonable, oppressive, excessive in scope or unduly burdensome, the administrative law judge or the Board may refuse to issue the subpena or may issue it upon such conditions as fairness requires.

(2) The administrative law judge or the Board by subpena may order that a deposition be taken, upon a showing that (i) the proposed witness will be unable to attend or may be prevented from attending the hearing because of age, sickness or infirmity, or will otherwise be unavailable, and (ii) the testimony will be material, and (iii) taking the deposition will not result in any undue burden to any other party or in undue delay of the proceeding. The subpena shall name the witness whose deposition is to be taken and specify the time and place for taking the deposition and the person before whom the deposition is to be taken. The time, place and person before whom the deposition is to be taken may differ from those stated in the application.

(b) *Application.* A party requesting the deposition of a witness or the production of documents, shall apply in writing to the administrative law judge, or to the Board of Directors in the event the administrative law judge is unavailable, stating the reasons for the application, the name and address of the witness or the person who is to produce the documents, the matters concerning which the witness is expected to testify or the contents of the documents, the relevance of the testimony or documents, the time and place for taking the deposition or production of documents, and the name and address of the person before whom the deposition is to be taken or the documents are to be produced. The party making the application shall serve a copy of the application on every other party to the proceeding.

(c) *Service of subpena.* Service of a subpena shall be made by delivering a copy of the subpena to the person named therein and by tendering the fees for one day's attendance and mileage as specified in § 308.10. A subpena issued on behalf of the Corporation shall be similarly served, however, the fees for attendance and mileage need not be tendered at the time of service. If service is made by the U.S. Marshall, a deputy U.S. Marshall or an employee of the Corporation, a return of service shall be made. If service is made by any other person, that person shall make a return of service by affidavit on or with the original subpena that states how service was made. The reasons for failure of service shall be stated. The original subpena with the required return shall be promptly delivered to the administrative law judge.

(1) *Natural persons.* Delivery of a copy of a subpena and tender of fees to a natural person may be made by handing them to the person; or by leaving them at the person's office with someone in charge; or by leaving them in a conspicuous place in the office if there is no one in charge; or by leaving them at the person's dwelling place or usual place of abode with someone of suitable age and discretion residing there; or by mailing them by registered or certified mail to the last known address of the person; or by any method that gives actual notice to the person and makes the fees available prior to the return date.

(2) *Other entities.* When the person to be served is not a natural person, delivery of a copy of the subpena and tender of the fees may be effected by handing them to a registered agent for service or to an officer or director or agent in charge of any office of the person; or by mailing them by registered or certified mail to the representative at the person's last known address; or by any method that gives actual notice to the person's authorized representative and makes the fees available prior to the return date. Any service on a foreign bank may be made on any branch or agency located within any State or the District of Columbia, but if the service is in connection with an action or proceeding involving one or more such branches or agencies, service shall be made on at least one branch or agency so involved.

(d) *Motion to quash.* A person named in a subpena or subpena duces tecum may apply to the administrative law judge, or to the Board of Directors if the administrative law judge is unavailable, to revoke, quash, or modify the subpena. A statement of the reasons for the application must accompany it and notice of the application must be given to the party requesting the subpena. The application must be made prior to the time for compliance specified in the subpena and not more than five days after the date of service of the subpena.

§ 308.09 Procedure on depositions.

(a) *When taken.* The Board of Directors or administrative law judge by subpena may order evidence to be taken by deposition at any stage of a proceeding. A deposition may be taken by the administrative law judge, or before any person having power to administer oaths and who is designated by the Board or the administrative law judge. A deposition shall be taken no sooner than five days after the parties to the proceeding have received notice of the deposition, where such notice has not been waived.

(b) *Procedure.* Each witness testifying upon oral deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or evidence shall be in short form, stating the grounds for the objection. The person taking the deposition shall not have power to rule upon questions of competency or materiality or relevance of evidence. Failure to object to questions or evidence shall not be deemed a waiver except where the ground for the objection is one which might have been avoided or removed if presented at that time. All questions, answers, and objections (not including argument or debate) shall be recorded by the person taking the deposition, or under such person's direction. The deposition shall

be subscribed by the witness, unless the parties by stipulation have waived the signing, or the witness is ill or cannot be found or has refused to sign. If the deposition is not subscribed by the witness, the person taking the deposition shall state this on the record and the reason therefor. The transcript shall be certified as a true and complete transcript of the deposition by the person taking it. Such person shall promptly send by registered or certified mail, the original and two copies of the deposition, and the original and two copies of all exhibits, to the Executive Secretary, unless otherwise directed in the order authorizing the deposition. Interested parties may make their own arrangements with the person taking the deposition for copies of the transcript and exhibits.

(c) *Introduction as evidence.* The deposition or any part of it may be read in evidence by any party to a proceeding, subject to appropriate rulings on objections to questions or evidence noted during the taking of the deposition and objections that would be valid were the witness testifying in person. This does not include objections waived in accordance with the fourth sentence of paragraph (b) of this Section. Only those portions of a deposition received in evidence at the hearing shall constitute a part of the record upon which a decision shall be based.

§ 308.10 Payment of witness fees.

Witnesses who testify or whose depositions are taken shall be paid the same fees for attendance and mileage paid in the United States district courts. Fees of the witness, the reporter and the person taking a deposition shall be paid by the party requesting attendance at a proceeding or deposition.

§ 308.11 Rules of evidence.

(a) *Evidence.* All parties shall have the right to present their case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds therefor. The record need not include argument on objections except as ordered, allowed, or requested by the administrative law judge. Rulings on such objections and on any other matters shall be a part of the record. Failure to object to the admission or exclusion of evidence or to any ruling shall be considered a waiver of the objection.

(c) *Official notice.* All matters officially noticed by the administrative law judge shall appear on the record.

§ 308.12 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this subpart shall be made by motion. Applications or requests shall be addressed to and filed with the administrative law judge prior to filing of the recommended decision with the Executive Secretary pursuant to § 308.13. At all other times, motions shall be addressed to the Board of Directors and filed with the Executive Secretary. Motions may be made orally upon the record at a session of a hearing, unless the administrative law judge requires a written motion. All other motions shall be in writing. All written motions shall state with particularity the order or relief sought and the grounds therefor.

(b) *Oppositions.* Within 5 days after service of any written motion, or within such other period of time fixed by the administrative law judge or the Board of Directors, any party may file a written answer or opposition to the motion. The moving party shall not have a right to reply, except as permitted by the administrative law judge or the Board. As a matter of discretion, the administrative law judge or the Board may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* Oral argument shall not be heard on motions, except as directed by the administrative law judge or the Board of Directors. Supporting memoranda or briefs may be filed with motions or answers or oppositions thereto.

(d) *Rulings on motions.* The administrative law judge shall rule upon all motions properly submitted in accordance with the provisions of this part, and upon such other motions as directed by the Board of Directors. If the administrative law judge finds that a prompt decision by the Board on a motion is essential to the proper conduct of the proceeding, the motion may be referred to the Board for decision. The Board shall rule upon all motions properly submitted.

(e) *Appeal from rulings on motions.* All motions, answers, oppositions and rulings shall become part of the record. Rulings of an administrative law judge on any motion may not be appealed to the Board of Directors prior to its consideration of the administrative law judge's recommended decision, findings and conclusions, except by special permission of the Board. Such rulings shall be considered by the Board in reviewing the record. Requests to the Board for special permission to appeal from such rulings shall be filed promptly in writing, and shall briefly state the grounds for the request. The moving party shall immediately serve a copy of the request on every other party to the proceeding.

(f) *Proceeding with hearing.* The hearing shall proceed pending the determination of any motion by the Board of Directors, unless otherwise ordered by the administrative law judge or the Board.

§ 308.13 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions by parties.* After service of the notice by the Executive Secretary that the record has been filed and transmitted as provided in § 308.07(h), each party to a hearing shall have 20 days to file with the administrative law judge proposed findings of fact, conclusions of law and a proposed order. For good cause, the administrative law judge may allow additional time for filing. The proposals may be accompanied by a supporting brief or memorandum citing statutes, decisions, other authorities, and page references to the record. All proposals, briefs and memoranda shall become part of the record.

(b) *Recommended decision and filing of record.* Within 30 days after expiration of the time allowed for filing of proposed findings, conclusions and order by the parties, the administrative law judge shall file with the Executive Secretary and shall certify to the Board of Directors for decision, the record of the hearing. For good cause, the Board may extend the period for filing and certification. The record shall include a recommended decision, findings of fact, conclusions of law, and proposed order, the transcript, exhibits, exceptions, rulings, and briefs and memoranda filed in connection with the hearing. Upon request of any party, the record shall include exhibits excluded from evidence or tenders of proof. The Executive Secretary shall promptly serve upon each party a copy of the administrative law judge's recommended decision, findings, conclusions, and proposed order. The provisions of this paragraph shall not apply to a hearing before the Board of Directors.

§ 308.14 Exceptions to proposed findings and conclusions and recommended decision.

(a) *Filing.* Within 15 days after service of the recommended decision,

findings, conclusions, and proposed order of the administrative law judge, a party may file with the Executive Secretary written exceptions thereto, exceptions to the failure of the administrative law judge to make any recommendation or finding or conclusion, exceptions to the admission or exclusion of evidence, and exceptions to any other rulings, subject to the provisions of this section. A supporting brief may also be filed. For good cause, the Board of Directors may allow additional time for filing. A party who has not filed an answer in accordance with paragraphs (a) and (d) of § 308.06, (unless the Board did not require such filing by the party) or exceptions in accordance with § 308.76 may not file exceptions pursuant to this section.

(b) *Waiver.* Failure of a party to file exceptions to those matters specified in paragraph (a) of this section within the time prescribed shall be a waiver of objection thereto.

(c) *Hearing before the Board of Directors.* The provisions of § 308.14 shall not apply to a hearing before the Board of Directors.

§ 308.15 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue, citing statutes, decisions, other authorities, and page references to the record or recommended decision of the administrative law judge. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed with the Executive Secretary within 10 days after service of briefs, and shall be confined to matters in the original briefs of opposing parties. Additional briefs may be filed with special permission of the Board of Directors.

(c) *Late filing.* Briefs not filed on or before the time fixed in this subpart shall be received only with the special permission of the Board of Directors.

§ 308.16 Oral argument before the Board of Directors.

Upon the written request of a party or upon its own initiative, the Board of Directors may order an oral argument on the findings, conclusions and recommended decision of the administrative law judge, when it considers justice will best be served thereby. The request must be made within the time prescribed for filing exceptions, or filing a brief in support of exceptions, or filing a reply brief, if any. The oral argument shall be before the Board or one or more members of the Board, and shall be recorded, unless otherwise ordered by the Board.

§ 308.17 Notice of submission to the Board of Directors.

The Executive Secretary shall notify the parties that the case has been submitted to the Board of Directors for final decision after the record of the hearing has been filed with the Executive Secretary and at the expiration of the time for filing exceptions and all briefs and after oral argument, if any, before the Board.

§ 308.18 Decision of the Board of Directors.

(a) *Decision and reopening of case.* The Board of Directors shall render its decision within 90 days after the Executive Secretary has notified the parties pursuant to § 308.17 that the case has been submitted to the Board for final decision. Within the 90-day period, the Board may order that the notice be set aside and the case reopened.

(b) *Corporation staff participation.* Appropriate members of the staff, who are not participating in the performance of investigative or prosecutorial functions in the particular case, or in a factually related case, may advise and assist the Board of Directors in the consideration of the particular case and in the preparation of documents for its disposition.

(c) *Copies.* The Executive Secretary shall furnish copies of the decision and order of the Board to the parties and to the bank concerned. Copies shall also be furnished to the appropriate State supervisory authority in the case of an insured nonmember bank, including a State branch of a foreign bank. Where the proceedings involve involuntary termination of the insured status of a State member bank, copies shall also be furnished to the Board of Governors of the Federal Reserve System. Where the proceedings involve involuntary termination of the insured status of a national bank, a District bank or a Federal branch of a foreign bank, copies shall also be furnished to the Comptroller of the Currency.

§ 308.19 Filing papers with the Executive Secretary.

(a) *Filing.* Papers required or permitted to be filed with the Board of Directors or the Executive Secretary, shall be filed with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. The papers may be sent to the Executive Secretary by mail or express, but must be postmarked or received by the Corporation in Washington, D.C., within the prescribed time limit for filing.

(b) *Formal requirements.* All papers filed under this subpart shall be printed or typewritten, and copies shall be clear and legible. The original of all papers filed by a party not a natural person shall be signed by the party's duly authorized representative. Papers filed by a party who is a natural person shall be signed by the party or a duly authorized representative. The signer's address and telephone number must appear on the original. Counsel for the Corporation shall sign the original of all papers filed on behalf of the Corporation. All papers filed must name in the heading or on a title page, the party, the Corporation and the subject of the papers.

(c) *Copies.* An original and four copies of all documents and papers required or permitted to be filed or served upon the Board of Directors or the Executive Secretary under this subpart (except the transcript of testimony and exhibits), shall be furnished to the Executive Secretary, unless otherwise specifically provided in the notice of hearing.

§ 308.20 Documents in proceedings confidential.

Unless otherwise ordered by the Board or required by law, the notice of hearing, the transcript, the recommended decision of the administrative law judge, exceptions thereto, proposed findings or conclusions, the findings and conclusions of the Board of Directors and other papers filed in connection with any hearing shall be for the confidential use of the Board, the administrative law judge or presiding officer, and appropriate supervisory authorities.

§ 308.21 Service of papers other than subpenas.

(a) *By the Board of Directors.* All documents or papers required to be served by the Board of Directors upon any party afforded a hearing shall be served by the Executive Secretary or the Board's designee. Service shall be made by personal service or by registered or certified mail, addressed to the last known address as shown on the records of the Board, of a party's attorney or representative of record. If there is no attorney or representative of record, service shall be made upon a party at the party's last known address as shown on the records of the Board. Service may also be made in such other manner reasonably calculated to give actual notice, as the Board may provide by regulation or otherwise. The foregoing

provisions do not apply to service by the Board on counsel for the Corporation.

(b) *By the parties.* Except as otherwise expressly provided, a party filing papers in accordance with this subpart shall serve them upon the attorneys or representatives of record of all other parties to the proceeding, or upon such other parties if there is no attorney or representative. Service may be made by personal service or by registered, certified, or regular first class mail addressed to the last known address of such parties, or their attorneys or representatives of record. When filed with the Board of Directors of the administrative law judge, all papers shall show that service has been made.

§ 308.22 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act or event or default from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday. When the last day is a Saturday, Sunday, or Federal holiday, the period shall run until the end of the next day that is not a Saturday, Sunday or Federal holiday, and intermediate Saturdays, Sundays and Federal holidays shall be included in the computation; however, when the period of time within which an act is to be performed is 10 days or less, intermediate Saturdays, Sundays and Federal holidays shall not be included.

(b) *Service by mail.* Under this part, when a party has the right or is required to perform an act within a prescribed time period after the service by mail or any papers upon the party, 3 days from the date the papers are deposited in the United States mail shall be added to the prescribed time period for performance.

Subpart C—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

§ 308.23 Scope.

Under the authority of section 8 of the Federal Deposit Insurance Act, the Board of Directors may terminate the insured status of an insured bank or an insured branch of a foreign bank upon the grounds set forth in Section 8 and enumerated in § 308.24, § 308.26, and § 308.31. Hearings required to terminate insured status shall be conducted in accordance with the rules and procedures of Subpart B and this subpart.

§ 308.24 Notice of finding grounds for termination of insurance.

The Board of Directors shall notify the Comptroller of the Currency in the case of a national bank or a District bank or an insured Federal branch of a foreign bank, and shall notify the appropriate supervisory authority in the case of an insured nonmember bank, including an insured State branch of a foreign bank, and shall notify the Board of Governors of the Federal Reserve System in the case of a State member bank, when the Board finds (a) that an insured bank (including a foreign bank having an insured branch) or its directors or trustees have engaged or are engaging in unsafe or unsound practices in conducting the business of such bank, or (b) that such bank is in an unsafe or unsound condition to continue operations as an insured bank, or (c) that such bank or its directors or trustees have violated an applicable law, rule, regulation, order, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the bank, or have violated any written agreement entered into with the Corporation. The appropriate supervisory authorities shall be notified for the purpose of securing correction of the practices or violations of a bank or its directors or trustees, or of the condition of the bank. The Board shall furnish a copy of the notice to the bank.

§ 308.25 Extraterritorial acts of foreign banks or their directors or trustees.

An act or practice committed outside the United States by a foreign bank or its directors or trustees, which act or practice in and of itself would otherwise be a ground for termination of the insured status of a branch of the foreign bank under this subpart, shall be a ground for such termination only if the Board of Directors finds either that: (a) The act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of, an act or practice committed within any State of the United States or the District of Columbia that in and of itself would be an appropriate basis for action by the Corporation, or (b) the act or practice committed outside the United States, if proven, would adversely affect the insurance risk of the Corporation.

§ 308.26 Failure of a foreign bank to secure removal of personnel.

When any person associated with a foreign bank fails to appear promptly as a party to a proceeding pursuant to § 308.40 or § 308.44 for removal or suspension of that person, or fails to comply with an effective order or judgment issued in such proceeding, any failure by the bank to secure that person's removal from office and preclude the person from further participation in the conduct of the affairs of the bank, shall be a ground for termination of insurance of deposits in any branch of the bank.

§ 308.27 Notice of intention to terminate insured status and hearing.

(a) *Notice and period of correction.* Unless correction of the practices, condition or violations specified in the notice issued pursuant to § 308.24 is made within 120 days of service of the notice, or a specified period of correction of not less than 20 days, the Board of Directors, if it determines to proceed further, shall give the bank or insured branch of a foreign bank not less than 30 days written notice of its intention to terminate insured status. The period of correction of not less than 20 days shall be fixed by the Board in any case where the Board in its discretion has determined that the insurance risk of the Corporation is unduly jeopardized, or fixed by the Comptroller of the Currency in the case of a national bank, or a District bank or an insured Federal branch of a foreign bank, or fixed by the State authority in the case of an insured nonmember bank, including an insured State branch of a foreign bank, or fixed by the Board of Governors of the Federal Reserve System in the case of a State member bank.

(b) *Hearing.* The notice shall fix a time and place for a hearing on the proposed termination of insurance, before an administrative law judge selected by the Office of Personnel Management. The rules and procedures of Subpart B of this part and the provisions of the Administrative Procedure Act (5 U.S.C. 554–557) shall apply. After consideration of the record made at the hearing, the Board shall make written findings which shall be conclusive.

§ 308.28 Order terminating insured status.

If the Board of Directors finds that any unsafe or unsound practice or condition, or violation specified in the notice issued pursuant to § 308.24 has been established and has not been corrected within the time prescribed in § 308.27(a), the Board may order that the insured status of the bank or branch be terminated on a subsequent date not earlier than the expiration of the time period specified in the notice of intention issued pursuant to § 308.27(a).

§ 308.29 Consent to termination of insured status.

If the bank does not appear by a duly authorized representative at the hearing pursuant to § 308.27(b), the bank shall be deemed to have consented to termination of the insured status of the bank or branch. The administrative law judge shall promptly report this failure to appear to the Board of Directors. The Board may then issue an order terminating the insured status of the bank or branch.

§ 308.30 Notice to depositors of termination of insured status.

Within the time specified by the Board of Directors and prior to the date of termination of the insured status of a bank or branch, the bank shall mail a notice of termination of insured status to each depositor at the depositor's last address of record on the books of the bank or branch. The bank shall publish the notice in two issues of a local newspaper of general circulation and shall furnish the Corporation with proof of such publications. The notice shall be as follows:

Notice

(Date) ————————.

1. The status of the ————————, as an (insured bank) (insured branch) under the provisions of the Federal Deposit Insurance Act, will terminate as of the close of business on the ——day of ————, 19—;

2. Any deposits made by you after that date, either new deposits or additions to existing deposits, will not be insured by the Federal Deposit Insurance Corporation;

3. Insured deposits in the (bank) (branch) on the ——day of ————, 19—will continue to be insured, as provided by the Federal Deposit Insurance Act, for 2 years after the close of business on the ——day of ————, 19—: Provided, however, that any withdrawals after the close of business on the ——day of ————, 19—, will reduce the insurance coverage by the amount of such withdrawals.

(Name of bank or branch)

(Address)

The notice may include any additional information the bank deems advisable.

§ 308.31 Termination of insured status of bank not engaged in the business of receiving deposits, other than trust funds.

(a) *Notice to show cause.* When the Board of Directors has evidence that an insured nonmember bank or an insured bank is not engaged in the business of receiving deposits, other than trust funds, the Board shall give written notice of this to the bank and shall direct the bank to show cause why its insured status should not be terminated under the provisions of Section 8(p) of the Federal Deposit Insurance Act. The bank shall have 30 days after receipt of the notice, or such longer period prscribed by the Board, to submit affidavits or other written proof that it is engaged in the business of receiving deposits, other than trust funds.

(b) *Hearing and notice of termination date.* Upon written request of the bank, the Board shall authorize a hearing before an administrative law judge selected by the Office of Personnel Management. The rules and procedures of Subpart B of this part and the provisions of the Administrative Procedure Act (5 U.S.C. 554–557) shall apply to the hearing. If, upon consideration of the record made at the hearing, the Board finds that the bank is not engaged in the business of receiving deposits, other than trust funds, the finding shall be conclusive and the Board shall notify the bank that its insured status will terminate at the expiration of the first full semiannual assessment period following issuance of the notice.

(c) *Notice to depositors of termination of insured status.* Within the time specified by the Board and prior to the date of termination of its insured status, the bank shall mail a notice of termination of insured status to each depositor at the depositor's last address of record on the books of the bank. The bank shall publish the notice in two issues of a local newspaper of general circulation and shall furnish the Corporation with proof of such publications. The notice shall be as follows:

Notice

(Date) ————————.

The status of the ———————— as an (insured bank) (insured branch) under the Federal Deposit Insurance Act, will terminate on the ——day of ————, 19—, and its deposits will thereupon cease to be insured.

(Name of bank or branch)

(Address)

The notice may include any additional information the bank deems advisable.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

§ 308.32 Scope.

(a) The rules and procedures of Subpart B and this subpart apply to proceedings by the Board of Directors to order an insured nonmember bank or its official to cease and desist from practices and violations described in Section 8 of the Federal Deposit Insurance Act and enumerated in § 308.33.

(b) The rules and procedures of Subpart B and this subpart apply to proceedings by the Board of Directors to order a municipal securities dealer or a person associated with the municipal securities dealer to cease and desist from any violation of law or regulation specified in Section 15B(c)(5) of the Securities Exchange Act of 1934, as amended (15 U.S.C. o–4(c)(5)), where the municipal securities dealer is an insured nonmember bank as defined in § 308.01, a subsidiary or department or division thereof.

(c) The rules and procedures of Subpart B and this subpart apply to proceedings by the Board of Directors to order a clearing agency or transfer agent to cease and desist from failure to comply with the applicable provisions of Section 17, 17A, and 19 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78q, 78q–1, 78s), and the applicable rules and regulations thereunder, where the clearing agency or transfer agent is an insured nonmember bank as defined in § 308.01, or a subsidiary thereof.

§ 308.33 Grounds for cease-and-desist orders.

The Board of Directors may issue and serve upon any insured nonmember bank or its official a written notice of charges and of hearing as specified in § 308.35, if (a) in the Board's opinion the bank or official is engaging or has engaged in an unsafe or unsound practice, or (b) the Board has reasonable cause to believe the bank or official is about to engage in an unsafe or unsound practice or (c) in the Board's opinion the bank or official has violated or the Board has reasonable cause to believe that the bank or official is about to violate a law, rule or regulation, or any condition the Board has imposed in writing in connection with granting an application or request of the bank, or any written agreement with the Corporation.

§ 308.34 Notice to State supervisory authority.

The Board of Directors shall give the appropriate State supervisory authority timely notice of its intent to institute a proceeding pursuant to Subpart D, and the grounds therefor. The proceeding shall be conducted according to Subpart D, unless within the time period specified in the notice pursuant to § 308.35, the State supervisory authority has effected satisfactory corrective action.

§ 308.35 Notice of charges and of hearing, and consent.

The notice issued pursuant to § 308.33 shall contain a statement of the facts constituting any alleged violation or unsafe or unsound practice, and shall fix

a time and place for a hearing to determine whether an order to cease and desist should issue against the bank or its official. The hearing shall be not earlier than 30 days nor later than 60 days after service of the notice, unless an earlier or later date is set by the Board of Directors in its discretion at the request of any party served with the notice. If such party does not appear at the hearing personally or by a duly authorized representative, the party will be deemed to have consented to issuance of the cease-and-desist order.

§ 308.36 Issuance and effective date of cease-and-desist order.

(a) *Issuance.* Upon consent, or if upon the record made at any hearing referred to in § 308.35, the Board of Directors finds that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and cause to be served upon the bank or its official, an order to cease and desist from any such violation or practice and to take affirmative action to correct any conditions resulting therefrom.

(b) *Effective date.* A cease-and-desist order shall become effective at the expiration of 30 days after the service of the order upon the bank or its official. A cease-and-desist order issued upon consent shall become effective at the time specified therein. All cease-and-desist orders shall remain effective and enforceable, except to the extent they are stayed, modified, terminated, or set aside by the Board of Directors or a reviewing court.

§ 308.37 Issuance and effective date of temporary cease-and-desist order.

(a) *Issuance.* When the Board of Directors determines that the violation, threatened violation or the unsafe or unsound practice (or the continuation of any of the foregoing) as specified in the notice of charges pursuant to § 308.35, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to weaken seriously the condition of the bank or otherwise to prejudice seriously the interests of its depositors prior to the completion of the proceedings pursuant to Section 8(b) of the Federal Deposit Insurance Act and § 308.35, the Board may issue a temporary order requiring the bank or its official to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of the proceedings.

(b) *Effective date.* A temporary order shall become effective when served upon the bank or its official. Unless the order is set aside, limited or suspended by a court in proceedings authorized under the Federal Deposit Insurance Act, it shall remain effective and enforceable pending completion of administrative proceedings pursuant to the notice of charges issued under § 308.35 and until the Board of Directors dismisses the charges.

§ 308.38 Extraterritorial acts of foreign banks or their officials.

An act or practice committed outside the United States by a foreign bank or its official that would otherwise be a ground for issuing a cease-and-desist order under § 308.36, or a temporary cease-and-desist order under § 308.37, shall be a ground for an order only if the Board of Directors finds either that (a) the act or practice has been, is, or is likely to be a cause of, or carried on in connection with or in furtherance of, an act or practice committed within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the Corporation, or (b) the act or practice, if proven, would adversely affect the insurance risk of the Corporation.

Subpart E—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

§ 308.39 Scope.

The rules and procedures of Subpart B and this subpart apply to proceedings by the Board of Directors to remove or suspend directors or officers of an insured nonmember bank or any other person participating in the conduct of the affairs of such bank, or proceedings to prohibit such director, officer or other person from further participation in the conduct of the affairs of such bank, upon the grounds set forth in Section 8(e) of the Federal Deposit Insurance Act and enumerated in this subpart. The rules and procedures of this subpart and Subpart B do not apply to suspension, removal, or prohibition proceedings upon the grounds set forth in Section 8(g) of the Federal Deposit Insurance Act and enumerated in Subpart G.

§ 308.40 Grounds for removal or prohibition.

(a) The Board of Directors may issue and serve upon a director or officer of any insured nonmember bank a written notice of its intention to remove the individual from office when the Board determines that (1) the individual has committed a violation of law, rule, regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has engaged in any act or omission or practice constituting a breach of fiduciary duty as a director or officer; and (2) the bank has suffered or will probably suffer substantial financial loss or other damage, or that the interests of its depositors could be seriously prejudiced by the violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of the violation or practice or breach of fiduciary duty. The violation, practice, or breach of fiduciary duty must be one that involves personal dishonesty on the part of the individual, or that demonstrates the individual's willful or continuing disregard for the safety or soundness of the bank.

(b) The Board may issue and serve a written notice of its intention to remove any director or officer or an insured nonmember bank from office when the Board determines that the individual by conduct or practice with respect to another insured bank or other business institution that resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for its safety or soundness, and, in addition, has evidenced unfitness to continue as a director or officer.

(c) The Board may issue and serve upon any other person participating in the conduct of the affairs of an insured nonmember bank a written notice of its intention to prohibit the individual's further participation in the conduct of the affairs of the bank when the Board determines that the individual by conduct or practice with respect to such bank or other insured bank or other business institution that resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for the safety or soundness of such insured bank and has evidenced unfitness to participate in the conduct of the affairs of such insured bank.

§ 308.41 Notice to State supervisory authority.

The Board of Directors shall give the appropriate State supervisory authority timely notice of its intent to institute a proceeding pursuant to Subpart E, and the grounds therefor. The proceeding shall be conducted according to Subpart E unless within the time specified in the notice pursuant to § 308.42, the State supervisory authority has effected satisfactory corrective action.

§ 308.42 Notice of intention to remove, hearing and consent.

A written notice issued pursuant to § 308.40 shall be served upon the director, officer or other person named therein, and a copy shall be served upon the bank concerned. The notice shall state the facts constituting the grounds for removal or prohibition and shall fix a time and place for a hearing. The hearing shall not be earlier than 30 days nor later than 60 days after the date of service of the notice, unless an earlier or a later date is set by the Board of Directors at the request of (a) the director or officer or other person, and for good cause shown, or (b) the Attorney General of the United States. Failure of the individual to appear at the hearing in person or by a duly authorized representative shall be deemed a consent to issuance of an order of removal or prohibition.

§ 308.43 Issuance and effective date of removal or prohibition order.

When the Board of Directors finds upon the record made at a hearing referred to in § 308.42 that any of the grounds specified in the notice have been established, the Board may issue orders of removal or prohibition that shall become effective at the expiration of 30 days after the date of service of the order upon the individual and the bank. A consent order issued by the Board in accordance with § 308.42 shall become effective at the time specified therein. All orders shall remain effective and enforceable except to the extent they are stayed, modified, terminated or set aside by the Board or a reviewing court.

§ 308.44 Grounds for suspension or prohibition.

The Board of Directors may suspend from office or prohibit from further participation in the conduct of the affairs of an insured nonmember bank, a director or officer of such bank or any other person participating in the conduct of the affairs of such bank, as referred to in § 308.40, when the Board deems it necessary for the protection of the bank or the interests of its depositors.

§ 308.45 Issuance and effective date of suspension or prohibition order.

(a) *Notice of suspension or prohibition.* Notice of suspension or prohibition shall be given by written order accompanying a notice issued pursuant to § 308.42, and setting forth the grounds for the suspension or prohibition as specified in § 308.44. The order shall be served upon the officer, director, or other person participating in the conduct of the affairs of the bank, and a copy shall be served upon the bank.

(b) *Effective date.* A suspension or prohibition shall become effective upon service of the order of suspension or prohibition and unless stayed by a court in proceedings authorized by the Federal Deposit Insurance Act, the order shall remain in effect pending completion of the administrative proceedings pursuant to the notice served under § 308.42 and until the Board of Directors dismisses the charges specified in such notice.

§ 308.46 Extraterritorial acts of officials of foreign banks.

An act or practice committed outside the United States by a director or officer of a foreign bank or by any other person participating in the conduct of the affairs of a foreign bank, that would otherwise be a ground for suspension, removal, or prohibition proceedings under this subpart, shall be a ground for such proceedings only if the Board of Directors finds that (a) the act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the Corporation, or (b) the act or practice, if proven, would adversely affect the insurance risk of the Corporation.

Subpart F—Procedures Applicable to Proceedings Pursuant to Section 10(c) of the Federal Deposit Insurance Act

§ 308.47 Scope.

The procedures in this subpart shall be followed in proceedings pursuant to Section 10(c) of the Federal Deposit Insurance Act, conducted in connection with examinations or investigations of banks.

§ 308.48 Order to conduct proceedings.

A proceeding pursuant to Section 10(c) shall be initiated only upon issuance of an order by the Board of Directors, the General Counsel or designee thereof, or the Director of the Division of Bank Supervision or designee thereof. The order shall designate a presiding officer as the Corporation's representative to conduct such proceedings. Upon application and for good cause shown, the Board or the person issuing the order may limit, quash, modify or withdraw the order.

§ 308.49 Powers of presiding officer.

The presiding officer in a Section 10(c) proceeding shall have the power, among other things, to administer oaths and affirmations, to take and preserve testimony under oath, to issue subpenas and subpenas duces tecum and to apply for their enforcement to the United States District Court for the judicial district or the United States court in any territory in which the main office of the bank is located or in which the witness resides or conduct business. The Board or a person issuing the order initiating the proceeding may limit, quash, or modify any subpena or subpena duces tecum, upon application and for good cause shown. The presiding officer shall report to the Board of Directors any instance where any person has been guilty of dilatory, obstructionist, or contumacious conduct during the proceeding, or any other instance involving a violation of these rules. The Board shall thereupon take such action as the circumstances warrant, and in addition may exclude the person from further participation in the proceeding.

§ 308.50 Proceedings confidential.

Proceedings pursuant to Section 10(c) shall be confidential unless otherwise provided by § 308.51(c). Information or documents obtained by the Corporation in the course of such proceedings shall be disclosed in accordance with Part 309 of the Corporation's rules and regulations, and as otherwise required by law.

§ 308.51 Rights of witnesses.

In a proceeding pursuant to Section 10(c):

(a) Any person compelled or requested to furnish testimony, documentary evidence, or other information, shall upon request be shown the order initiating the proceeding. At the discretion of the presiding officer, a copy of the order may be furnished to such person.

(b) Any person compelled, requested or permitted to appear and testify has the right to be accompanied, represented and advised by counsel. While testifying, such person may have counsel present who may (1) advise the witness before, during and after such testimony; (2) briefly question the witness at the conclusion of such testimony for clarification of answers; (3) make summary notes during such testimony solely for the use of the witness.

(c) All persons testifying shall be sequestered. Such persons and their counsel shall not be present during the testimony of any other person, unless permitted in the discretion of the presiding officer.

(d) If the record developed in the course of the proceeding contains allegations of wrongdoing by any person with respect to the affairs or ownership of any bank, such person shall be

advised of the alleged wrongdoing and shall be afforded a reasonable opportunity, consistent with administrative efficiency, to produce rebuttal evidence in documentary form (including depositions and statements under oath), or in the form of testimony given before the presiding officer. The evidence shall be on the record.

(e) Witness fees shall be paid in accordance with § 308.10.

§ 308.52 Service of subpena.

Service of a subpena shall be in accordance with § 308.08(c).

§ 308.53 Transcripts.

Transcripts of testimony, if any, in a proceeding pursuant to Section 10(c) shall be recorded by the official reporter, or by any other person or means designated by the presiding officer. A person submitting documentary evidence or testimony may obtain a copy of the transcript, if any, upon payment of the cost thereof.

§ 308.54 Special examinations and examinations of closed banks.

Procedures in this subpart shall be followed when proceedings pursuant to Section 10(c) are instituted in connection with the special examination of any State member bank, any national or District bank, any insured Federal branch of a foreign bank, or the examination of any closed insured bank or branch, or the examination of an affiliate of any of the foregoing.

Subpart G—Procedures and Standards Applicable to Suspension, Removal and Prohibition Where Felony Charged

§ 308.55 Scope.

The rules and procedures set forth in this subpart apply to proceedings by the Board of Directors (a) to suspend any director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such a bank, or to prohibit such individuals from further participation in the conduct of the affairs of the bank where the individual is charged in any State, Federal or territorial information or indictment, or charged in any complaint authorized by a United States attorney, with the commission of, or participation in, a crime involving dishonesty or breach of trust punishable by imprisonment exceeding one year under State or Federal law; and (b) to remove from office any such director or officer or other person, or to prohibit such individuals from further participation in the conduct of the affairs of the bank, except with the consent of the Board, where a judgment of conviction not subject to further appellate review has been entered against the individual for the commission of, or participation in, a crime involving dishonesty or breach of trust punishable by imprisonment exceeding one year under State or Federal law.

§ 308.56 Relevant considerations.

In deciding whether to suspend, remove or prohibit under this subpart, the Board of Directors shall consider (a) whether the alleged offense is a crime which is punishable by imprisonment for a term exceeding one year under State or Federal law, and which involves dishonesty or breach of trust; and (b) whether the continued presence of the individual in a position with an insured bank may pose a threat to the interest of the bank's depositors or may threaten to impair public confidence in the bank. The Board of Directors may consider additional factors in the specific case that appear relevant to its decision to continue in effect, rescind, terminate or modify a suspension, removal or prohibition order. The Board shall not consider the guilt or innocence of the individual charged with the crime.

§ 308.57 Notice of suspension or prohibition.

Proceedings by the Board of Directors to suspend an individual from office or prohibit further participation in the conduct of the affairs of the bank as referred to in § 308.55(a), shall be initiated by written notice of suspension or prohibition served on the individual, upon prior determination by the Board that the offense alleged in the information or indictment or complaint involved dishonesty or breach of trust, and that the individual's participation in the conduct of the affairs of the bank may pose a threat to the bank's depositors or may threaten to impair public confidence in the bank. The suspension or prohibition shall remain in effect until final disposition of the information or indictment or complaint, and until the Board terminates the suspension or prohibition. A copy of the notice shall be served upon the bank concerned.

§ 308.58 Order of removal or prohibition.

When a final judgment of conviction not subject to further appellate review is entered against a director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such bank for a crime referred to in § 308.55(b), the Board of Directors may issue and serve upon the individual an order removing the individual from office or prohibiting further participation in the conduct of the affairs of the bank except with the Board's consent where continued service or participation by the director, officer, or other person may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank. A copy of the order shall be served upon the bank, at which time the director or officer named in the order shall be removed from office. The order shall remain effective until completion of the hearing or appeal authorized under Section 8(g) of the Federal Deposit Insurance Act and this subpart, unless the order is terminated by the Board. A finding of not guilty or other disposition of the case will not preclude the Board from thereafter instituting proceedings to remove an individual from office or prohibit further participation in the conduct of the affairs of the bank, pursuant to Section 8(e) of the Federal Deposit Insurance Act and Subpart E.

§ 308.59 Notice of opportunity and request for hearing.

A notice pursuant to § 308.57 and an order pursuant to § 308.58 shall be accompanied by (a) a statement that within 30 days of service of such notice or order, the individual may file with the Executive Secretary a written request for a hearing stating the relief desired and the grounds therefor and that is accompanied by supporting evidence when available; and (b) a description of the hearing procedure and relevant considerations specified in § 308.56.

§ 308.60 Waiver of hearing.

Failure to request a hearing pursuant to § 308.59 shall constitute a waiver of the opportunity of hearing. Failure to appear at a hearing in person, through counsel, or personally with counsel shall constitute a waiver of hearing. The individual may in writing waive a hearing and elect to have the matter determined by the Board of Directors on the basis of written submissions.

§ 308.61 Hearing.

(a) The Executive Secretary shall order a hearing to commence within 30 days after receipt of a request for hearing pursuant to § 308.59, in Washington, D.C., or at another designated place, before a presiding officer designated by the Board of Directors. The Board may order a later hearing date upon petition of the individual afforded the hearing.

(b) The provisions of § 308.04, § 308.05, § 308.20 and § 308.22 apply to proceedings conducted under this subpart, except as otherwise specifically provided. The formal rules of evidence and the adjudicative procedures of the

Administrative Procedure Act (5 U.S.C. 554–557) shall not apply to the hearing.

(c) The individual may appear at the hearing personally, through counsel, or personally with counsel, and shall have the right to introduce relevant and material documents and to present oral argument.

(d) Staff members of the Corporation's Office of the General Counsel may attend the hearing and participate as a party.

(e) The proceedings shall be recorded and a transcript shall be furnished to the individual afforded the hearing upon request and after payment of the cost thereof. At the discretion of the presiding officer witnesses may be presented within specified time limits, provided that a list of witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn, unless specifically requested by a party or the presiding officer. The presiding officer may ask questions of any witness. Each party shall have the opportunity to cross-examine any witness presented by an opposing party.

(f) In the course of, or in connection with any proceeding under this subpart, the Board of Directors or the presiding officer shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum. Where the presentation of witnesses is permitted, the presiding officer may require the attendance of witnesses from any State, territory or other place subject to the jurisdiction of the United States at any location where the proceeding is being conducted. Witness fees shall be paid in accordance with § 308.10. The Board or the presiding officer may require the production of documents from any such State, territory, or other place subject to the jurisdiction of the United States.

(g) Upon the request of the individual afforded the hearing or the staff members of the Corporation's Office of the General Counsel, the record shall remain open for 5 business days following the hearing for the parties to make additional submissions to the record. The record shall thereafter be closed.

(h) The presiding officer shall make recommendations to the Board, where possible, within 10 days after the record is closed.

§ 308.62 Decision of the Board of Directors

Within 60 days following the hearing or receipt of written submissions pursuant to § 308.60, the Board of Directors shall notify the individual whether the suspension or prohibition will be continued, terminated, or otherwise modified, or whether the order of removal or prohibition will be rescinded or otherwise modified. The notification shall state the basis for any decision of the Board adverse to the individual. The Board shall promptly rescind or modify an order of removal or prohibition where the decision is favorable to the individual.

§ 308.63 Reconsideration by the Board of Directors

The individual afforded a hearing pursuant to § 308.61 shall have 10 days following receipt of the decision of the Board of Directors to petition the Board for reconsideration. The individual shall also be entitled to petition the Board for reconsideration of its decision after the expiration of 12 months from the date of the Board's decision. A petition shall state with particularity the basis for reconsideration, the relief sought, and any exceptions to the findings of the Board. It may be accompanied by a supporting memorandum and by other documentation. Promptly following receipt of the petition for reconsideration, the Board shall determine whether to grant a hearing.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties for the Violation of Cease-and-Desist Orders or Certain Federal Statutes

§ 308.64 Scope

(a) The rules and procedures in this subpart and Subpart B apply to proceedings by the Board of Directors to assess and collect civil penalties from (1) an insured nonmember bank or its official (as defined in § 308.02(1)) where the bank or official has violated the terms of any cease-and-desist order which has become final, or (2) an insured nonmember bank or its official where the bank or official has violated the provisions of Section 22(h) or 23A of the Federal Reserve Act (as made applicable by Section 18(j) of the Federal Deposit Insurance Act), or (3) the provisions of Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended.

(b) As used in § 308.65, § 308.66, and § 308.67, the term "has violated" includes, but is not limited to, any action (alone or with another) for or towards causing, bringing about, participating in, counseling, or aiding or abetting a violation.

§ 308.65 Violation of order as ground for assessment.

If, in the opinion of the Board of Directors, an insured nonmember bank or its official has violated any final order issued pursuant to Section 8(b) or 8(c) of the Federal Deposit Insurance Act and Subpart D, the Board may assess upon the bank or official a civil penalty of not more than $1,000 per day for each day the violation continues.

§ 308.66 Violation of laws limiting dealings with bank officials and affiliates as ground for assessment.

If, in the opinion of the Board of Directors, an insured nonmember bank or its official has violated any provision of Section 22(h) or 23A of the Federal Reserve Act, as amended (made applicable by Section 18(j) of the Federal Deposit Insurance Act), or has violated any lawful regulation issued pursuant thereto, the Board may assess upon the bank or official a civil penalty of not more than $1,000 per day for each day the violation continues.

§ 308.67 Violation of law governing correspondent accounts as ground for assessment.

If, in the opinion of the Board of Directors, an insured nonmember bank or its official has violated any provision of Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended, the Board may assess upon the bank or official a civil penalty of not more than $1,000 per day for each day the violation continues.

§ 308.68 Relevant considerations.

In determining the amount of the penalty assessed pursuant to § 308.65, § 308.66, or § 308.67, the Board of Directors shall consider the financial resources and good faith of the insured nonmember bank or its official, the gravity of the violation, any previous violations, and such other matters as justice may require.

§ 308.69 Notice of assessment of civil penalty, and opportunity and request for hearing.

(a) Civil penalties pursuant to § 308.65, § 308.66, or § 308.67 shall be assessed by written notice served upon the bank or official. The notice shall state the amount of the penalty, the period for payment, the legal authority for assessment, and the matters of fact or law constituting the grounds for assessment.

(b) The notice shall further indicate that within 10 days of issuance of the notice, the individual assessed may file with the Executive Secretary or other designee of the Board of Directors a written request for a hearing. A

description of the hearing procedure shall accompany the notice.

(c) The notice shall be delivered by personal service, by registered or certified mail, or by other appropriate means, to the last known address of the party assessed.

§ 308.70 Waiver of hearing.

Failure to request a hearing pursuant to § 308.69(b) shall constitute a waiver of the opportunity of hearing and the notice of assessment pursuant to § 308.69(a) shall constitute a final and unappealable order.

§ 308.71 Hearing and order.

The Executive Secretary or designee of the Board of Directors shall order a hearing to commence within 60 days after receipt of a request for a hearing pursuant to § 308.69(b). The provisions of the Administrative Procedure Act (5 U.S.C. 554–557) and Subpart B shall apply to the hearing. If, upon the record made at the hearing, the Board finds that the grounds for assessing the civil penalty have been established, the Board shall issue its final order and cause it to be served upon the party. The final order shall require payment of the penalty, as specified in the notice of assessment, or the Board, in its discretion, may reduce the amount of the penalty.

§ 308.72 Period for payment of civil penalty.

Civil penalties assessed pursuant to § 308.65, § 308.66, or § 308.67 are payable and to be collected within the 90-day period after issuance of the notice of assessment, unless the Board of Directors shortens the period for payment or makes the amount payable upon receipt of the notice, where the Board determines the purpose of the penalty would be better served thereby. Notwithstanding any other provision of this subpart, if a party has requested a hearing pursuant to § 308.69(b) to challenge a penalty or an antecedent finding, the party shall not be required to pay the penalty until the Board has issued a final order following the hearing.

Subpart I—Rules and Procedures Applicable to Proceedings Relating to Disapproval of Acquisition of Control

§ 308.73 Scope.

The rules and procedures in this subpart and Subpart B apply to proceedings by the Board of Directors in connection with the disapproval by the Board of a proposed acquisition of control of an insured nonmember bank.

§ 308.74 Grounds for disapproval.

The following are grounds for disapproval of a proposed acquisition of control:

(a) The proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or attempt to monopolize the banking business in any part of the United States;

(b) The effect of the proposed acquisition of control in any part of the United States would be to substantially lessen competition or tend to create a monopoly or would in any other manner be in restraint of trade, and anticompetitive effects of the proposed acquistion of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

(c) The financial condition of any acquiring person might jeopardize the financial stability of the bank or prejudice the interest of the depositors of the bank;

(d) The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank; or

(e) Any acquiring person neglects, fails, or refuses to furnish to the Corporation all the information required by it.

§ 308.75 Notice of disapproval and opportunity and request for hearing.

(a) Within 3 days of its decision to disapprove a proposed acquisition of control of an insured nonmember bank, the Board of Directors shall serve a written notice of disapproval upon the party seeking to acquire control. The notice shall state the legal authority and the basis for the disapproval. A copy of any views and recommendations submitted to the Corporation by the appropriate State bank supervisory agency shall accompany the notice.

(b) The notice shall further indicate that within 10 days of receipt the individual may file with the Executive Secretary a written request for a hearing. A description of the hearing procedure shall accompany the notice.

(c) The notice shall be delivered by personal service, by registered or certified mail, or by other appropriate means to the last known address of the party being afforded the notice.

(d) Failure to request a hearing pursuant to this section shall constitute a waiver of the opportunity of hearing and the notice of disapproval shall constitute a final and unappealable order.

§ 308.76 Exceptions.

(a) *Filing.* The Board of Directors may direct the party requesting a hearing pursuant to § 308.75(b) or the party may elect to file exceptions to the statement of the basis for disapproval contained in the notice of disapproval. Exceptions shall be filled with the Executive Secretary within 20 days after service of the notice upon the party, unless the Board specifies a different filing period of not less than 10 days after service of the notice. For good cause shown, the Board or the administrative law judge may permit filing of exceptions after expiration of the filing period.

(b) *Requirements.* Exceptions filed under this section to a statement of the basis for disapproval of a proposed acquisition of control shall specifically designate the part of the statement to which exception is taken. Only those parts of a statement of the basis for disapproval so designated may be challenged by the party at the hearing.

(c) *Effect of failure to except.* Failure of a party to timely file required exceptions to a statement of the basis for disapproval of a proposed acquisition of control shall be deemed a waiver of the party's right to appear and contest the disapproval and shall authorize the administrative law judge to conduct the hearing without further notice to that party. If every party has waived the right to appear in a disapproval proceeding, the administrative law judge is authorized to recommend to the Board that it dispense with further proceedings.

§ 308.77 Hearing and order.

The Executive Secretary shall order a hearing to commence within 60 days after receipt of a request for hearing pursuant to § 308.75(b). If the appropriate State bank supervisory agency has submitted views and recommendations on the proposed acquisition, it shall be entitled as of right to appear as a party. The provisions of the Administrative Procedure Act (5 U.S.C. 554–557) and Subpart B shall apply to the hearing. If, upon the record made at the hearing, and after giving due considerations to any views or recommendations previously submitted by an appropriate State bank supervisory agency, the Board of Directors finds that there are adequate grounds for approving or disapproving the acquisition, the Board shall issue its final order approving or disapproving the acquisition and cause

it to be served on the party seeking control.

Subpart J—Rules and Procedures Applicable to Proceedings Relating to Assessment of Civil Penalties for Willful Violation of the Change in Bank Control Act

§ 308.78 Scope.

The rules and procedures of this subpart apply to proceedings by the Board of Directors to assess civil penalties against any person for willful violation of the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) or any regulation or order issued pursuant thereto, in connection with the affairs of an insured nonmember bank.

§ 308.79 Notice of intention to assess civil penalty and opportunity and request for hearing.

(a) If, in the opinion of the Board of Directors, any person has willfully violated the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) or any regulation or order issued pursuant thereto, in connection with the affairs of an insured nonmember bank, the Board may cause notice to be served upon the person of its intention to assess a civil penalty of not more than $10,000 per day for each day the violation continues. The notice shall state the legal authority and grounds for assessment and the amount of the penalty.

(b) The notice shall further state that within 10 days of issuance of the notice the individual may file with the Executive Secretary a written request for a hearing. A description of the hearing procedure shall accompany the notice.

(c) The notice shall be delivered by personal service, by registered or certified mail, or by other appropriate means, to the last known address of the person assessed.

§ 308.80 Waiver of hearing.

Failure to request a hearing pursuant to § 308.79(b) shall constitute a waiver of the opportunity for hearing. The Board of Directors, for good cause shown, may extend the period to request a hearing. A party may in writing waive a hearing and elect to have the propriety of the penalty determined by the Board solely on the basis of written submissions.

308.81 Hearing.

The Executive Secretary shall order a hearing to commence within 30 days after receipt of a request for a hearing pursuant to § 308.79(b), in Washington, D.C., or another place designated by the Executive Secretary, before a presiding officer designated by the Board of Directors. The provisions of § 308.61 (b), (c), (d), (e), and (g) shall apply to the hearing.

§ 308.82 Assessment.

If, after considering the data, views, and arguments presented at the hearing pursuant to § 308.81, or any written submissions made pursuant to § 308.80, and the gravity of the violation and the financial resources and good faith of the party, the Board concludes that a civil penalty is warranted, it shall assess against the party a penalty of not more than $10,000 per day for each day the violation continues. Based upon the same consideration, the Board, in its discretion, may reduce the penalty from the amount stated in the notice of intention. The Board shall cause a final order of assessment to be served upon the party.

§ 308.83 Collection.

The Corporation may collect the civil penalty assessed pursuant to § 308.82 by agreement with the party, or the Corporation may bring an action against the party to recover the penalty amount in the appropriate United States District Court.

Subpart K—Rules and Procedures for Imposition of Sanctions Upon Municipal Securities Dealers or Persons Associated With Them, and Upon Clearing Agencies or Transfer Agents

§ 308.84 Scope.

The rules and procedures in this subpart and Subpart B apply to proceedings by the Board of Directors (a) to censure, limit the activities of, suspend, or revoke the registration of, any municipal securities dealer for which the Corporation is the appropriate regulatory agency; and (b) to censure, or suspend or bar from being associated with such a municipal securities dealer, any person associated with such a municipal securities dealer; and (c) to deny registration to, censure, limit the activities of, suspend, or revoke the registration of, any transfer agent or clearing agency for which the Corporation is the appropriate regulatory agency. This subpart and Subpart B shall not apply to proceedings to postpone or suspend registration of a transfer agent or clearing agency pending final determination of denial or revocation of registration.

§ 308.85 Grounds for imposition of sanctions.

(a) The Board of Directors may issue and serve upon any municipal securities dealer for which the Corporation is the appropriate regulatory agency, a written notice of its intention to censure, limit the activities or functions or operations of, suspend, or revoke the registration of, such municipal securities dealer, when the Board determines (1) that such municipal securities dealer (i) has committed any prohibited act or omitted any required act specified in subparagraph (A), (D), or (E) of Section 15(b)(4) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78o), or (ii) has been convicted of any offense specified in Section 15(b)(4)(B) of that Act within 10 years of commencement of proceedings under this section, or (iii) is enjoined from any act, conduct or practice specified in Section 15(b)(4)(C) of that Act; and (2) that it is in the public interest to impose any of the foregoing sanctions of this paragraph (a).

(b) The Board of Directors may issue and serve upon any person associated or seeking to become associated with a municipal securities dealer for which the Corporation is the appropriate regulatory agency a written notice of its intention to censure, suspend or bar the person from being associated with the municipal securities dealer, when the Board determines (1) that such person (i) has committed any prohibited act or omitted any required act specified in Subparagraph (A), (D) or (E) of Section 15(b)(4) of the Securities Exchange Act of 1934, as amended, or (ii) has been convicted of any offense specified in Section 15(b)(4)(B) of that Act within 10 years of the commencement of proceedings under this section, or (iii) is enjoined from any act, conduct or practice specified in Section 15(b)(4)(C) of that Act; and (2) that it is in the public interest to censure, suspend or bar such person.

(c) The Board of Directors may issue and serve upon any transfer agent or clearing agency for which the Corporation is the appropriate regulatory agency, a written notice of its intention to deny registration to, censure, place limitations on the activities or functions or operations of, suspend, or revoke the registration of, the transfer agent or clearing agency, when the Board determines (1) that the transfer agent or clearing agency has willfully violated, or is unable to comply with, any applicable provision of Section 17 or 17A of the Securities Exchange Act of 1934, as amended, or any applicable rule or regulation issued pursuant thereto; and (2) that it is in the public interest to impose any of the foregoing sanctions of this paragraph (c).

§ 308.86 Notice and consultation with the Securities and Exchange Commission.

Before initiating any proceedings under § 308.85 (a) or (b), the Board of

Directors shall (a) notify the Securities and Exchange Commission of the identity of the municipal securities dealer or associated person against whom proceedings are to be initiated, and the nature of and basis for the proposed action, and (b) consult with the Securities and Exchange Commission concerning the effect of the proposed action on the protection of investors and the possibility of coordinating the action with any proceeding by the Commission against the municipal securities dealer or associated person.

§ 308.87 Notice of intention to impose sanctions.

A notice of intention to impose sanctions referred to in § 308.85 shall contain a statement of the proposed sanctions and the grounds for imposition of the sanctions, and shall fix a time and place for a hearing. The notice shall be delivered by personal service, by registered or certified mail, or by other appropriate means, to the last known address of the party upon whom sanctions are to be imposed.

§ 308.88 Hearing.

The hearing shall not be earlier than 30 days nor later than 60 days after the date of service of the notice, unless an earlier or later date is set by the Board of Directors at the request of the municipal securities dealer, associated person, or transfer agent or clearing agency, and for good cause shown. The procedures of Subpart B and the provisions of the Administrative Procedure Act (5 U.S.C. 554–557) shall apply to the hearing. Failure to appear at the hearing in person or by a duly authorized representative shall be deemed a consent to issuance of the order by the Board.

§ 308.89 Issuance and effective date of order imposing sanctions.

If the Board of Directors finds upon the record made at the hearing pursuant to § 308.88 that the grounds specified in the notice pursuant to § 308.87 have been established, the Board may issue an order containing the sanctions specified in the notice. The order shall be effective at the expiration of 30 days after the service of the notice, except that an order of censure, denial or revocation of registration is effective when served. A consent order in accordance with § 308.88 shall become effective at the time specified therein. All orders shall remain effective and enforceable except to the extent they are stayed, modified, terminated or set aside by the Board or a reviewing court; however, orders of suspension shall continue in effect no longer than 12 months.

Subpart L—Rules and Procedures Relating to Exemption Proceedings Under Section 12(h) of the Securities Exchange Act of 1934

§ 308.90 Scope.

The rules and procedures of this subpart apply to proceedings by the Board of Directors to exempt in whole or in part, an issuer of securities from the provisions of Section 12(g), 13, 14(a), 14(c), 14(d), or 14(f) of the Securities Exchange Act of 1934, as amended, or to exempt an officer or director or beneficial owner of securities of such an issuer from the provisions of Section 16 of that Act.

§ 308.91 Application for exemption.

Any interested person may file a written application for an exemption under this subpart with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. The application shall specify the exemption sought and the reason therefor, and shall include a statement indicating why the exemption would be consistent with the public interest or the protection of investors.

§ 308.92 Newspaper notice.

If the Board of Directors decides to further consider the application for exemption, it shall serve upon the applicant instructions to publish one notice in a newspaper of general circulation in the community where the main office of the issuer is located. The applicant shall furnish proof of such publication to the Executive Secretary. The notice shall contain (a) the name and address of the issuer and the name and title of the applicant, (b) the exemption sought, (c) a statement that a hearing will be held, and (d) a statement that within 30 days of publication of the newspaper notice, interested persons may submit to the Corporation written comments on the application for exemption and a written request for an opportunity to be heard. The address of the Corporation must appear in the notice.

§ 308.93 Notice of hearing.

Within 10 days after expiration of the period for receipt of comments pursuant to § 308.92, the Executive Secretary shall serve upon the applicant and any person who has requested an opportunity to be heard, a notice indicating the place and time of the hearing, to be held not later than 30 days after service of the notice of hearing. The notice shall contain the name and address of the presiding officer designated by the Board of Directors and a statement of the matters to be considered.

§ 308.94 Hearing.

Parties to the hearing may appear personally, through counsel, or personally with counsel. Parties shall have the right to introduce relevant and material documents and to make an oral statement. The formal rules of evidence, the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 554–557), and Subpart B shall not apply. The Board of Directors or the presiding officer shall have discretion to permit presentation of witnesses within specified time limits, provided that a list of witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn. The presiding officer may ask questions of any witness and each party may cross-examine any witness presented by an opposing party.

§ 308.95 Decision of the Board of Directors.

Following submission of the hearing transcript to the Board of Directors, the Board may grant the exemption where it determines by reason of the number of public investors, the amount of trading interest in the securities, the nature and extent of the issuer's activities, the issuer's income or assets, or otherwise, that the exemption is consistent with the public interest or the protection of investors. An exemption shall be granted by an order specifying the terms of the exemption, the person to whom it is granted, and the period for which it is granted. A copy of the order shall be served upon each party to the proceeding.

[FR Doc. 80-21753 Filed 7-18-80; 8:45 am]
BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 20521; Amdt. 39-3849]

Slingsby Model T65A, Vega Gliders; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective to all known U.S. owners and operators of Slingsby Model T65A Vega gliders by individual telegrams. The AD requires

installation of an operating limitations placard and replacement of defective wings. The AD was necessary to prevent possible wing failure resulting from inadequate bonding of the main wing shear web to the wing spar cap.

DATES: Effective July 17, 1980, as to all persons except those persons to whom it was made immediately effective by the telegraphic AD T79EU-12, issued September 12, 1979, which contained this amendment. Compliance schedule—as prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: A. Astorga, Acting Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone: 513.38.30, or C. Chapman, Chief, Policy Standards Section, AWS-111, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone: 202-426-8192.

SUPPLEMENTARY INFORMATION: On September 12, 1979, telegraphic AD T79EU-12 was issued and made effective immediately as to all known U.S. owners and operators of Slingsby Model T65A Vega gliders. The FAA had determined that AD action was necessary to prevent main wing failure due to possible inadequate bonding of the main wing shear web to the wing spar cap. The AD required the installation of a placard restricting V_{NE} and rough air airspeed to 95 knots and limiting the maximum gross weight to 775 pounds, and replacement of suspected defective wings.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed for making the AD effective immediately to all known U.S. owners and operators of Slingsby Model T65A Vega gliders, by telegraphic AD T79EU-12, issued September 12, 1979. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

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

Slingsby: Applies to Model T65A Vega gliders, all serial numbers up to and including 1913, certificated in all categories.

Compliance required as indicated.

To prevent main wing failure due to possible inadequate bonding of the main wing shear web to the wing spar cap, accomplish and operate the glider in accordance with the following:

(a) Prior to further flight:

(1) Install a placard in full view of and legible to the pilot which reads:

Both V_{NE} and rough air airspeed are restricted to 95 kts. maximum.

Maximum gross weight is limited to 775 lbs.

(2) Install a red radial line on the airspeed indicator dial face at 95 kts., V_{NE}, indicated airspeed. Check the airspeed indicator dial face to determine if it is free to turn. The red radial line may be installed on the airspeed indicator face glass, if the face glass is firmly fixed and not free to turn. If the face glass is free to turn, install the red radial line on the airspeed instrument face.

(b) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished, replace the main wing with a Slingsby certified serviceable wing which is identified with "Mod. 27 embodied" adjacent to the wing serial number or with a serviceable wing approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, Brussels, Belgium, at which time the limitations imposed by paragraph (a) of this AD no longer apply.

Note.—Slingsby Technical Instruction No. 38 pertains to this AD and provides guidance to glider owners affected by this AD on obtaining serviceable replacement wings from Slingsby or through Slingsby authorized representatives.

This amendment becomes effective July 17, 1980, as to all persons except to those persons to whom it was made immediately effective by telegraphic AD T79EU-12, issued September 12, 1979, which contained this amendment.

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

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

Issued in Washington, D.C., on July 10, 1980.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 80-21703 Filed 7-17-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80-GL-12-AD, Amdt. 39-3848]

Rosemount, Inc. Model 856 AE-12, -13, and -15 Pitot-Static Probes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective on all Boeing 737 aircraft with Rosemount, Inc. Model 856 AE-12, -13, and -15 Pitot-Static Probes, by airmail letter dated June 11, 1980. The AD is prompted by reports of erroneous airspeed indication caused by icing of the Pitot-Static Probe.

DATES: Effective July 25, 1980. Compliance required within the next 100 hours in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from the Boeing Company, Box 3707, Seattle, Washington 98124. Attention: Homor E. Basel M/S 9R-19. A copy of the service bulletin is contained in the Rules Docket, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, IL 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Charles Smalley, Engineering and Manufacturing Branch, AGL-213, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 379.

SUPPLEMENTARY INFORMATION: Rosemount, Inc. has determined that some of their Model 856 AE-12, -13, and -15 Pitot-Static Probes, designed for Boeing 737 airplanes, have the incorrect wire used in the de-icing heaters. The incorrect wire does not generate enough heat to properly de-ice the Probe and, therefore, causes erroneous airspeed indications. Since this condition is likely to exist on other Pitot-Static Probes of the same type design, an Airworthiness Directive is being issued which requires checking the heater resistance on Rosemount Pitot-Static Probes Model 856 AE-12, -13, and -15.

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

Adoption of the Amendment

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

Rosemount, Inc.: Applies to all Model 856 AE-12, -13, and -15 Pitot-Static Probes up to and including S/N 49529.

Compliance is required as indicated unless already accomplished. To prevent icing of the Pitot-Static Probe, accomplish the following:

Within the next 100 hours time in service, conduct resistance checks of the Pitot-Static Probe heater element in accordance with procedures in paragraph 10, Parts II and III of Boeing Alert Service Bulletin 737-30A1018 dated June 9, 1980, or FAA approved equivalent. All probes, including spares, serial numbers up to and including S/N 49529, must be checked. Probes with resistance values less than the minimum limits in the Boeing Alert Service Bulletin are considered defective. Dispatch of an airplane with defective probe heaters is limited to the minimum equipment list (MEL) restriction for operation with a failed Pitot-Static Probe Heater (MEL item 30-5). A defective probe falls into the category of an inoperative probe heater for MEL dispatch purposes. Upon request of the operator an equivalent means of compliance with the requirements of this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Great Lakes Region.

This amendment becomes effective July 25, 1980, as to all persons except those to whom it was made immediately effective by airmail letter dated June 11, 1980, which contained this amendment.

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

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Des Plaines, Ill., on June 24, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-21698 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80-CE-20-AD, Amdt. 39-3847]

Cessna Model 404 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Model 404 airplanes. This AD, which supersedes AD 80-07-08, incorporates the requirements of that AD and adds additional requirements. The new AD requires that elevator trim tab actuator screw assemblies must be replaced within 25 hours time-in-service and each 150 hours time-in-service thereafter. In addition, it requires check for misalignment of the elevator trim tab actuator to the tab horn. If the inboard/outboard misalignment is out of tolerance, the elevator trim tab bracket must be replaced. A temporary tachometer decal also must be installed restricting the lower limit of the engine's normal operating range to 1750 RPM and this restriction added to the "Limitations" section of the Pilot's Operating Handbook. Finally, the stabilizer modifications specified in Cessna Service Kit SK404-31 must be incorporated on all affected airplanes by April 1, 1981. After installation of SK404-31, the other requirements of the AD are no longer applicable. This action will better ensure the integrity of the elevator trim tab actuator screw assemblies. Failure of the screw assemblies in flight could result in an unsafe condition.

EFFECTIVE DATE: July 24, 1980. Compliance as prescribed in the body of the AD.

ADDRESSES: Cessna Multi-engine Customer Care Service Information Letter ME80-2, Revision 2, dated March 14, 1980, and Revision 3, dated June 20, 1980, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; telephone (316) 685-9111. A copy of these Service Information Letters are also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Lawrence S. Abbott, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 942-4219.

SUPPLEMENTARY INFORMATION: Amendment 39-3727, AD 80-07-08 published in the **Federal Register** on March 31, 1980 (45 FR 20779, 20780), applicable to Cessna Model 404 airplanes, requires periodic replacement of the elevator trim tab actuator screw assemblies, inspection and possible replacement of the tab actuator bracket, and installation of a temporary tachometer decal in accordance with instructions in Cessna Service Information Letter ME80-2, Revision 2, and Cessna Service Kit Instruction Numbers SK404-17-1 and -2 and SK404-30 dated March 14, 1980. Subsequent to issuance of the AD, Cessna Aircraft Company has made Kit SK404-31 available that will negate the several requirements specified in the AD. Cessna's Service Information Letter ME80-2, Revision 3, calls out SK404-31. Therefore, the agency is superseding AD 80-07-08, with a new AD which incorporates the provisions of AD 80-07-08, requires adding engine RPM temporary limitations to the Airplane Flight Manual and makes installation of the kit by April 1, 1981, mandatory. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days after the date of publication in the **Federal Register.**

Adoption of the Amendment

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

Cessna: Applies to Model 404 (Serial Numbers 404-0001 thru 404-0637) airplanes.

Compliance required as indicated, unless already accomplished.

To ensure the structural integrity of the elevator trim tab actuator screw assemblies accomplish the following in accordance with the provisions of Cessna Multi-engine Customer Care Service Information Letter ME80-2, Revision 2, dated March 14, 1980, and Revision 3, dated June 20, 1980, as applicable:

(A) On all airplanes with 150 hours or more time-in-service, or upon reaching 150 hours time-in-service, within the next 25 hours time-in-service after the effective date of this AD and each 150 hours time-in-service thereafter, replace both left and right elevator trim tab actuator screw assemblies with new screw assemblies of the same part number.

(B) Within the next 25 hours time-in-service after the effective date of this AD, install a decal on the tachometer which restricts the lower edge of the normal engine operating range to 1750 RPM and operate the airplane in accordance with this limitation. Insert a copy of this paragraph in the "Limitations" section of the Airplane Flight Manual to reflect this temporary restriction.

(C) On Serial Numbers 404-0001 through 404-0613 airplanes, within the next 25 hours time-in-service after the effective date of this AD:

(1) Disconnect the aft end of Cessna P/N 5815160-1 pushrod from the trim tab horn and check the elevator trim tab pushrod for inboard/outboard alignment at the pushrod attachment to the elevator trim tab horn for both left and right hand trim tabs. If the misalignment does not exceed .12 inch, reconnect the pushrod and return the airplane to service.

(2) If the Cessna P/N 5815160-1 pushrod has to be forced more than .12 inch inboard/outboard to align with the trim tab actuator bracket, replace it with a new part of the

same part number and return the airplane to service.

(D) On or before April 1, 1981, modify the horizontal stabilizer in accordance with Cessna Service Information Letter ME80–2, Revision 3, dated June 20, 1980, and Cessna Service Service Kit SK404–31. After installation of Cessna Service Kit SK404–31, the requirements of paragraphs A, B and C of this AD are no longer applicable.

(E) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the provisions of this AD can be accomplished.

(F) Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942–4285.

This AD supersedes AD 80–07–08, Amendment 39–3727.

This amendment becomes effective July 24, 1980.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Office of the Regional Counsel, Federal Aviation Administration, Central Region, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on July 9, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80–21700 Filed 7–18–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 80–GL–18]

Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the existing control zone serving Max Conrad Airport, Winona, Minnesota, and to designate additional controlled airspace in order to encompass revisions to existing approach procedures.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using these approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions. The expansion and slight alteration to the control zone boundary is mainly a redefinition of the boundary. The additional airspace required north of the airport would lower the floor of controlled airspace in this area from 700′ above ground to the surface for an additional 2 miles. The circumstance which created this action was the need to update existing procedures after the state removed the ISMLS serving this airport. A review of the terminal airspace requirements requires that the FAA add the additional airspace to insure that the revised procedures will be contained within controlled airspace. In addition, aeronautical maps and charts will reflect the defined areas, which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 20903 of the **Federal Register** dated March 31, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the control zone at Winona, Minnesota. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective September 4, 1980, as follows:

In § 71.171 (45 FR 356), the following control zone is amended to read:

Winona, Minn.

Within a 5-mile radius of the Winona Municipal-Max Conrad Field (latitude 44°04′37″N, longitude 91°42′22″W; within 3.0 miles each side of the Winona (ONA) VOR (latitude 44°04′34.6″; longitude 91°42′20.1″) 320° radial extending from the 5-mile radius area out to 8.5 miles northwest, within 1.5 miles each side of the ONA 110° radial extending from the 5-mile radius out to 6.0 miles east of the airport.

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

Note.— The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL–7), Docket No. 80–GL–18, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on July 10, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80–21696 Filed 7–18–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 80–GL–13]

Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: The nature of this federal action is to reduce the size of the existing control zone serving Kalamazoo Municipal Airport, Kalamazoo, Michigan, by removing a 2-mile control zone extension on the 229° radial of the Kalamazoo VOR. This extension is no longer required to encompass instrument procedures into Kalamazoo Municipal Airport. The instrument approach procedure which caused the extension to the southwest (VOR Rwy 5) has been deleted.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–4500, Extension 456.

SUPPLEMENTARY INFORMATION: The alteration to the control zone is mainly a redefinition of the existing boundary with the 2-mile extension on the 229° radial of the Kalamazoo VOR removed. The floor of the controlled airspace within the area where the control zone extension is being removed will be raised from the surface to 700′ above ground.

Discussion of Comments

On page 20903 of the Federal Register dated March 31, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the control zone at Kalamazoo, Michigan. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective September 4, 1980, as follows:

In § 71.171 (45 FR 356), the following control zone is amended to read:

Kalamazoo, Mich.

Within a 5-mile radius of the Kalamazoo Municipal Airport (latitude 42°14'07"N, longitude 85°33'10"W); within 2 miles each side of the Kalamazoo VOR 001° and 167° radials, extending from the 5-mile radius zone to 7 miles north and south of the VOR, and within 2 miles each side of the Kalamazoo ILS localizer south course, extending from the 5-mile radius zone to the OM. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continously published in the Airport/Facility Directory.

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

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-13, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, IL, on July 10, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-21697 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 121

[Docket No. 19758; Amdts. Nos. 61-69 and 121-161]

Advanced Simulation

Correction

In FR Doc. 80-19492 appearing on page 44176 in the issue of Monday, June 30, 1980, make the following corrections:

(1) On page 44183, in the third line of Appendix H of Part 121, "... training an advanced airplane ..." should have read "... training in advanced airplane ..."

(2) In the first column of page 44184, complete the fifth line under Advanced Simulation Training Program as follows "... training program which is approved by the Administrator for the operator. This program [must also ensure . . .]".

BILLING CODE: 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 253

[Docket 35514; Amdt. 3; Regulation ER-1187]

Commissions for Sale of Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is eliminating the requirement that air carriers file a schedule of their commissions for the sale of air transportation. This action is taken at the Board's own initiative, because it finds that reports have little use by the Board, may have an anticompetitive impact, and do not justify their cost.

DATES: Adopted: July 16, 1980. Effective: July 16, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: 14 CFR Part 253 requires each air carrier to file with the Board a schedule of the commissions it pays travel agents for the sale of air transportation originating in the United States. Under 14 CFR 399.85, any deviation by a carrier from its filed schedule is considered an unfair and deceptive practice in violation of Section 411 of the Federal Aviation Act. The Board originally adopted Part 253 by ER-961 (41 FR 30107, July 22, 1976) to end the payment of allegedly excessive commissions in international air transportation. At that time, the Board believed that high commissions would erode carrier revenues and increase fares, injuring both the public and the air transportation industry. On May 10, 1979, the Board, by EDR-376/PSDR-60 (44 FR 28670) proposed to revoke Part 253 and § 399.85 on the grounds that its present policy of developing a competitive market in air transportation replaced the strict economic regulation for which Part 253 and § 399.85 were designed, and had rendered them unnecessary.

The Board received eighteen comments in response to its notice. Eight foreign carriers and one agent's association [1] opposed revocation of Part 253. They argued that its elimination would cause excessive commission rates or illegal rebates, and that the lack of easy access to rate information would hinder, not help, competition for agents' services. Five comments on the original proposal supported the proposal on grounds that it would reduce the costs and burdens of filing and promote competition, and because Part 253 appeared to serve no useful purpose. On June 5, 1980, United Air Lines filed further comments in support of the proposal, with a motion for expedited treatment of the proposed elimination of Part 253. Four other comments were filed in support of United's motion.[2]

The Board concludes that Part 253 and § 399.85 have outlived their usefulness. There is a distinct possibility that the disclosure requirement tends to inhibit competition by facilitating collusion and price signaling. Carriers can learn in advance what others are paying and follow their lead. The required adherence to the schedule precludes bargaining and might operate to enforce an agreed-upon price, a result inconsistent with the Board's effort to encourage competition. On May 23, 1980, the Board, by Order 80-5-159, opened the domestic travel agency market to competition in commission rates. To continue to require disclosure of commission rates will further inhibit competition by defeating the air carriers' incentive to experiment with different commission payment plans.

The Board does not anticipate that eliminating Part 253 and § 399.85 will result in excessive commissions or rebating. To be sure, there may be a rise

[1] International Airforwarder and Agents Association, Alitalia Airlines, British Caledonian Airways, Empressa Ecuatoriana De Aviacion, El Al, Scandinavian Airlines Systems, Compania Mexicana de Aviacion, Air Panama International and Phillipine Airlines.

[2] Supporting comments: United, Pan American, Delta, TWA, Japan Air Lines, Pakistan Airlines, American Automobile Association, American Society of Travel Agents and American Express.

in commission rates, reflecting the true value of services freed from artificial restraints. Even so, a carrier is not likely to continue to increase its commission in response to another carrier's increase or engage in rebating if more effective and economical methods of competing are available. Other promotional devices, such as reducing fares, upgrading service, increasing advertising, and expanding ticket outlets, provide a built-in incentive to keep agent commissions at a reasonable level.

In our judgment, the unavailability of filed commission information will not adversely affect competition, and might well enhance it. Competitive markets generate their own sources of information and function well without the benefits of filed rates. An agent can contact an air carrier to find out its commission rate, and an air carrier has various ways to determine whether its commissions are competitive. The Board concludes that the costs of retaining Part 253 and § 399.85 outweigh any benefits they may still have, and that it is in the public interest to revoke them.

Since this rule relieves a restriction and does not impose any additional burden we find that the change may take effect immediately.

Accordingly, the CAB is amending Chapter II of Title 14 CFR as follows:

Part 253, *Commissions for sale of air transportation,* is revoked and reserved.

(Section 204, 403, 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 766; 83 Stat. 103; 49 U.S.C. 1324, 1373, 1377)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-21804 Filed 7-18-80; 8:45 am]

BILLING CODE 6320-01-M

---

14 CFR Part 399

[Docket 35514; Amdt. 74; Regulation PS-97]

Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is eliminating the requirement that air carriers adhere to their filed commission schedule for the sale of air transportation. That action is taken at the Board's own initiative, because it is eliminating the requirement that air carriers file schedules of their commissions.

DATES: Adopted: July 16, 1980. Effective: July 16, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The explanation is found in ER-1187 (published elsewhere in this issue of the **Federal Register**).

Since this rule revokes a statement of policy, we find that the change may take effect immediately.

Accordingly, the CAB is amending 14 CFR Part 399, *Statements of General Policy* as follows:

Section 399.85 is revoked and reserved.

(Sections 204, 403, 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 766; 83 Stat. 103; 49 U.S.C. 1324, 1373, 1377)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-21805 Filed 7-18-80; 8:45 am]

BILLING CODE 6320-01-M

---

14 CFR Part 399

[Reg. PS-96; Amdt. 73 to Part 399; Docket Nos. 37982, 33836, 35119, 29198]

Fare Flexibility for Puerto Rico/Virgin Islands, Hawaii, and Alaska

Adopted: July 14, 1980.

AGENCY: Civil Aeronautics Board.

ACTION: Interim Policy Statement.

SUMMARY: The Civil Aeronautics Board establishes its standard fare levels and fare suspension policies for Puerto Rico/Virgin Islands, Hawaii, and Lower 48-Alaska (but not intra-Alaska) markets. The policy includes full downward, and 30 percent upward, fare flexibility. The action is intended to enhance competition and give carriers a degree of pricing freedom in the transition period before full deregulation.

DATES: The policy was put into effect May 29, 1980 for Alaska and Hawaii and June 17, 1980 for Puerto Rico/Virgin Islands. The amendments of 14 CFR Part 399 are effective July 14, 1980.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5298.

SUPPLEMENTARY INFORMATION: In PSDR-66 (45 FR 24178; April 9, 1980; Docket 37982) the Civil Aeronautics Board invited comments on a variety of options to make domestic passenger fare policy more flexible. In that notice of proposed rulemaking, the Board did not distinguish between those portions of its domestic jurisdiction historically covered by the Domestic Passenger Fare Investigation ("DPFI") fare formula,[1] essentially the lower 48 states, and the several other ratemaking entities not covered by the *DPFI* fare formula: Travel to/from/within Alaska, Hawaii, Puerto Rico/Virgin Islands, and U.S. territories.

In PS-94 (effective May 14, 1980; served June 12, 1980), the Board adopted as its interim policy, subject to further consideration,[2] certain of the options proposed in PSDR-66, but for the 48 contiguous States only. The interim policy includes full downward flexibility in all markets and full upward for flights up to 200 miles. For flights between 200 and 400 miles airlines may set fares up to 50 percent above the applicable standard industry fare level, and for flights over 400 miles, 30 percent above. The policy is designed to counteract a bias against shorthaul markets built into the previous zone of fare flexibility and to ease the transition to full pricing deregulation mandated by the Airline Deregulation Act in 1983. The Board reserves its powers to deviate from the general policy where a carrier substantially and clearly abuses its market power.

The Board did not deal the non-DPFI entities immediately, because it wished to assess whether the general policy needed to be modified to reflect their peculiarities. By this notice it establishes fare policy for Puerto Rico/Virgin Islands, Hawaii, and Lower-48-to-Alaska (but not intra-Alaska) markets.

The Board has now decided on an interim policy of full downward fare flexibility and 30 percent above SIFL upward flexibility in the Puerto Rico, Hawaii, and Lower-48-to-Alaska ratemaking entities, for the reasons set forth below. This policy, too, is subject to reconsideration, as outlined in PSDR-66B issued today. This ongoing dialogue with interested parties, in conjunction with careful monitoring of the effects of the new policy in the marketplace, should provide a reasoned and informed basis for policy making as the Board moves toward the elimination of its domestic ratemaking jurisdiction.

This proceeding overtakes the separate proceedings dicussed below for Puerto Rico/Virgin Islands, Hawaii, and Alaska markets (Dockets 33836, 35119, and 29198). Those proceedings are therefore terminated, except that with respect to intra-Alaska issues Docket 29198 is consolidated into Docket 37892.

---

[1] From Phase 9 of the *Domestic Passenger Fare Investigation,* C.A.B. *DPFI Volume,* pp. 932 and 933.

[2] In PSDR-66A, 45 FR 40994, June 17, 1980, the Board requested comments on PS-94 by July 17, 1980 and reply comments by August 1, 1980.

Standard Industry Fare Levels

The Federal Aviation Act, as amended by the Airline Deregulation Act of 1978, Pub. L. 95–504, defines the "standard industry fare level" (SIFL), the basis for statutory zones of flexibility, as

> the fare level [adjusted for cost increases] in effect on July 1, 1977, for each interstate or overseas pair of points * * * (Section 1020(D)(6)(A)).

In PS–92, 45 FR 24115, April 9, 1980, we interpreted this to mean the predominant fare in effect on July 1, 1977, adjusted for cost increases, with a rebuttable presumption that the lowest unrestricted fare was the predominant one. That interpretation was intended to apply to the 48 contiguous States. However, the fare level bases for setting the fare flexibility zones for Puerto Rico/Virgin Islands and for Hawaii differ somewhat from those for other domestic markets, because of the peculiarity of the fare structure in those markets.

For Mainland-Puerto Rico/Virgin Islands, before passage of the Deregulation Act there were Board-prescribed peak-season surcharges in all markets, and weekend surcharges in some of them. In EDR–366/PDR–58/PSDR–52 (43 FR 51641; November 6, 1978; Docket 33836), issued just as the Act was passed, we proposed to base the zones of flexibility on the peak-season midweek fares effective July 1, 1977, except in markets where the Board has specified only seasonal differentials. In the latter markets the zones would be based on the off-peak seasonal fares. Although it does involve some selection, in our opinion this level best satisfies the statutory definition for the Puerto Rico/Virgin Islands markets. No objections were made to the proposal, and we hereby adopt it as the SIFL for those markets, for purposes of both the statutory zones and the Board-set regulatory zones of fare flexibility.

For the Mainland-Hawaii markets, the Board proposed in EDR–373/PDR–64/PSDR–57(44 FR 18688; March 29, 1979; Docket 35119) to apply substantially the same SIFL as in the Mainland domestic markets. The so-called "second class" fare to Hawaii was chosen as the "normal" unrestricted fare class, with the peak-season fare used as the basis for SIFL. No objections were raised to this proposal, and we hereby adopt that level as the Mainland-Hawaii SIFL for both statutory and regulatory purposes.

For Intra-Hawaii markets the picture is somewhat more complex. In EDR–373, we chose the so-called "first-class" fares—the standard fares—as the basis for SIFL and the regulatory zones in those markets. Then by EDR–373A, 44 FR 28826, May 10, 1979, we proposed a base fare level for the Board's regulatory purposes that was 8 to 10 percent higher than the SIFL proposed in EDR–373. The reason was that the intra-Hawaiian fares in effect on July 1, 1977, happened to be lower than the ceiling set by the Board at the time, and therefore threatened to distort intra-Hawaiian pricing for the remaining life of the tariff system.

This approach was opposed by the State of Hawaii, and supported by Aloha and Hawaiian Airlines. The State argued that the Act prevented the Board from adopting a fare basing level different from the one defined in the Act. We disagree. The Act creates zones within which the Board is deprived of power to suspend fares. It does not state or imply that the Board *must* suspend fares outside of those zones. The Board is left with the power to decide its own fare suspension policies outside of the statutory no-suspend zones, and this action is an implementation of that power. It can be exercised in various ways: By establishing larger percentage ranges around the base fare level, as was recently done in PS–94, 45 FR 40969, June 17, 1980; by establishing a different base fare level, as we are doing here; by varying the cost-adjustment methodology; or by taking no action independent of the statutory zones, as is our present stance for the intra-Alaska markets.

We have decided to adopt the proposed approach for the intra-Hawaii markets. In our judgment it is not in the public interest for the Board to hold fares below a normal return on investment over an extensive period of time. That has always been a fundamental Board policy, and it is even more important in a deregulated pricing environment. To force the Hawaiian carriers to bear until 1983 the burden of unusually low prices that happened to exist in July 1977 could result in deteriorated service, financial difficulties for the carriers, and a need for public subsidy to maintain service.

The methodology for arriving at the adjusted fare basing level, which we will call the "standard Hawaiian fare level (SHFL)" to avoid confusion with the SIFL, is set forth in Appendix C. In brief, it assumes a proper return on investment of 12.35 percent, by analogy with the continental local service carriers, and arrives at a SHFL of 10 percent above SIFL. The SHFL will, of course, be adjusted by the same percentage cost factors that are applied to the SIFL in all other markets.

For the Mainland-Alaska markets, the Board will use the same approach as for the 48 contiguous States: SIFL is the unrestricted economy fare in effect on July 1, 1977, as adjusted. This conforms to the approach set out in our previous proposal on Alaska, EDR–383/PSDR–63 (44 FR 52847; September 11, 1979; Docket 29198). As discussed below, the intra-Alaska markets are not dealt with in this issuance, but will be the subject of further proceedings.

Puerto Rico

The only comments on PSDR–66 relating to the non-DPFI entities (other than the carriers', which did not distinguish markets geographically and which favored substantial or total upward flexibility) were filed by the Commonwealth of Puerto Rico. By letter dated June 4, 1980, to the Assistant Director, Fares, Rates and Tariffs, the Commonwealth requested copies of the Board staff's analysis of its comments in this docket, and also a request for a public conference in which the Commonwealth, Board staff, and other interested parties would participate. The staff analyses were provided on June 6, and in response the Commonwealth filed a "Supplementary Statement of Facts and Position" with the Board's Docket Section on June 16, 1980. American and Eastern Airlines subsequently filed answers to Puerto Rico's statements. The Commonwealth later moved for a stay of this proceeding so that the Board would have an opportunity to consider the materials completely. Though the supplementary materials were not received in time for consideration at the June 17 Sunshine meeting, at which Puerto Rican fare policy was discussed, we have fully considered those comments in our deliberations leading to this rule. A stay is therefore unnecessary and the motion is denied. We also find no need for a conference or other oral procedures at this time, so the Commonwealth's request in this regard is also denied.

Our fare policies over the years have been designed to foster fare levels to Puerto Rico that are lower than domestic fares generally. The Board has long recognized the vital importance of air transportation to the Commonwealth, its dependency on tourism, and the generally different economic conditions prevalent within the Commonwealth militating in favor of the lowest possible fare levels.[3] In our 1976 decision on Puerto Rican fare levels, a load factor of 68 percent for ratemaking purposes was chosen, rather

[3] See Docket 24353, *Mainland U.S.-Puerto Rico/Virgini Islands Fares* case Orders 74–10–78 and 76–8–100 *Mainland-PR/VI Fares). See also page 4 of EDR–366, Docket 33836.*

than the 55 percent load factor standard applicable generally within the domestic entities determined in Phase 6–B of the DPFI.[4] This decision gave effect to our low-fare predilections, though at a clear and explicit penalty in lesser service quality. At that time, of course, the Board conceived its role as the arbiter of trade-offs between prices and services. Our role today is different. The Airline Deregulation Act makes the marketplace the decision-maker. Nevertheless, in determining the issues before us today, we have not lost sight of their historical context. After careful consideration, however, we cannot agree with the Commonwealth that the public interest permits maintaining current fare ceilings to Puerto Rico at a time when fare ceilings on other domestic routes are being significantly raised.

The Commonwealth's principal attack on PSDR–66 rested on its belief that the Mainland-Puerto Rico markets are not "structurally competitive," notwithstanding liberal use by airlines of already existing upward fare flexibility. It pointed to many markets which are served by only one carrier, and noted American Airlines' recent decision to substantially terminate non-stop Puerto Rico service to and from Washington, D.C., Philadelphia, and Chicago. Observing that "the markets are also characterized by a lack of deeply discounted fares such as Super Savers," the Commonwealth argued that increased upward flexibility will be translated into higher fares without discipline of market forces and without public benefits. In its supplementary comments, the Commonwealth emphasized the island's dependency on air transportation, and the insignificance of inter-modal competition. Indeed, local travel between the mainland and Puerto Rico is performed exclusively by air transportation. We were urged to defer introduction of higher fare ceilings until the current recession begins to abate and the Puerto Rican economy is under less stress.

In their answers to the Puerto Rico statement, both American and Eastern asserted that the Commonwealth's request for a stay of our decision did not meet the judicial standards for such an action.[5] American argued further that several of the Commonwealth's supplemental comments were misleading. Among others, it cited the commonwealth's assertion that Puerto Rico fares were "marginally above" the fare level under the DPFI fare formula, and stated that this was not true. It noted that the Commonwealth's Appendix A showed the DPFI formula fare for New York-San Juan for May 1980 to be $208.57, whereas the actual published fare was $185.50.

American also asserted that the Commonwealth's comparisons of fares in other select markets were not valid, because the fares selected were not "representative basic fares," but rather the lowest promotional fares available. Thus, the comparison with the basic coach fare in the New York-San Juan market was distorted. The carrier also noted that the fare-per-mile comparison was meaningless because two of the comparison markets had stage lengths almost twice as long as New York-San Juan. American pointed out that, contrary to the assertions of Puerto Rico, a number of discount fares were available in the Mainland-Puerto Rico markets. Finally, the carrier suggested that the failure of other carriers to enter the Mainland-Puerto Rico market was because of inadequate yields.

We agree with the Commonwealth that service, whether expressed in terms of available seat-miles or the number of flights in a given time period, has declined between the mainland and San Juan. At the same time, coach fares have risen and kept pace with ceiling levels. A comparison of selected fares is set forth in Appendix A. It can be observed that, for example, the differential between peak and off-peak fares for New York-San Juan has disappeared since 1977. Essentially, the off-Peak fares have been raised to peak levels, and all reflect maximum fare flexibility under current policy. The Commonwealth implies that these fares reflect the abuse of monopoly power. We do not agree.

First, there are no significant regulatory barriers to entry. More than 15 carriers are authorized to serve Puerto Rico. Second, the existing coach fare ceilings are well below the interstate SIFL formula. As we pointed out in PSDR-66, without contradiction in the comments, the SIFL formula levels are not now producing detectable excess profits in the industry. More importantly, if current fare levels are in any significant sense above costs, new capacity should be attracted. But, as noted, the opposite is the case. Indeed, annual coach load factors have risen to extremely high levels. For example, in New York JFK-San Juan, the following data appear:

	Percent		
	1977	1978	1979
American	68	69	74
Eastern	62	64	71

This progression unambiguously reflects a substantive loss of capacity relative to demand, as well as a service quality decline, which will only be exacerbated by American's current moves in other San Juan markets. These developments are quite inconsistent with what we know of airline behavior when prices are above costs.

That Puerto Ricans may feel exasperated by the current combination of service declines and fare increases is wholly understandable. But the Commonwealth's *status quo* policy prescription risks accelerating the adverse service trend, particularly given the new opportunities provided elsewhere by domestic fare flexibility. The Board's pre-deregulation policy of holding Puerto Rican fares below levels applicable generally within the domestic entity, perpetuated by SIFL regulation, took a significant toll once entry and exit were liberalized. Unless the interdependence of Puerto Rican and domestic operations is recognized by a congruent fare policy, the situation may get worse. Present inaction, we fear, would likely preclude the increase in competition which is a necessary part of the long-term solution to the problem.

Puerto Rico's supplementary comments seem to suggest that the lack of new entry into the Puerto Rican markets results not from the disparity of fare ceilings but, more likely, "lack of aircraft equipment," or "unsettled economic conditions and lack of available resources" by carriers. We do not find this persuasive. The downturn in domestic traffic on account of the recession has already substantially alleviated capacity shortages, and surely carriers' capability to operate under "unsettled economic conditions" is partly a function of the degree of pricing freedom they have. If Puerto Rico is right that the current price ceiling will adequately protect service and attract new entry, increased prices by incumbent carriers will accelerate the growth of new competition and doom their allegedly monopolistic behavior. If Puerto Rico is wrong, any capacity which does become available will flow not to Puerto Rico but to other domestic markets where the rewards are greater.

The Commonwealth argues that the coach fares to Puerto Rico cannot be too low in light of the fact that current coach fares in some other dense markets are even lower. Several of the "comparison" fares reflect current "fare-wars", *e.g.*

[4] See *DPFI Volume, supra*, pp. 451–520.

[5] *Virginia Petroleum Jobbers Association v. FPC*, 259 F. 2d 921 (D.C. Cir. 1958) and *Washington Metropolitan Area Transit Comm. V. Holiday Tours*, 550 F.2d 841 (D.C. Cir. 1977).

New York-Miami and New York-Los Angeles, and do not necessarily reflect the long-run competitive price. Another citation involves a new entrant's fare for Los Angeles-Honolulu. The probative value of such limited comparisons is doubtful. There is no showing that the comparison markets are in fact comparable in terms of demand and cost characteristics. More to the point, data available indicate that carrier yields in the Puerto Rico markets are substantially less than overall domestic yields. For example, the effective yield for the Mainland-Puerto Rico entity for 1979 was 6.72 cents per revenue passenger mile with an average passenger haul of 1458 miles. The DPFI normal fare formula (at the 1979 mid-point) for such an average trip yields an average fare rate of 10.45 cents per passenger mile, resulting in dilution of 36 percent. This is substantially greater than the domestic trunk and local service experience for the third quarter of 1979, which showed an average dilution of 25 percent.

While the foregoing discussion implies an expectation on our part that Puerto Rico fares could rise to some extent with increased fare flexibility, we believe that they will not do so without providing compensatory benefits. We expect that price and service options will be increased through expanded use of peak pricing in these markets. Also, it is plausible to believe that our holding down the coach fare has retarded the availability of deep discount fares, which are now generally limited to off-peak periods and are heavily capacity-controlled. Increased capacity in the market should, in itself, increase the need for innovative discount fares. Any higher fares on the part of scheduled airlines should encourage the growth of low-cost charter operations. Finally, the large number of discretionary travelers who can vacation elsewhere should hold any price increases to reasonable levels. In the long run, these markets should receive the services passengers are willing to pay for.

In extending 30%-over-SIFL upward flexibility throughout the Puerto Rican-Virgin Islands entity, we do not consider that we are abandoning our responsibility to promote reasonable fares, nor will we remain inactive if our policy leads to unbalanced results. Any use of the new pricing freedom which is plainly inconsistent with competitive pricing principles or the Board's goals of a wide array of price and service options tailored to the needs of the marketplace will be reviewed on a case-by-case basis. What we decide today is that the marketplace should be given a chance to accomplish the task unfettered by price regulation which appears to stifle competition and reduce service.

Alaska

No one representing Alaskan interests has filed comments on PSDR–66. Alaska Airlines and Wien Air Alaska joined in ATA's comments favoring full upward flexibility nationwide. In dealing with Alaskan fares, however, we have adopted a cautious approach. Mainland-Alaska markets pose no special difficulties. The Board has aggressively opened up entry within the past year, with considerable success.[6] Fares are generally well below the SIFL formula fare, and it makes little more sense to widen the disparity with domestic fare ceilings here than it does in the Puerto Rican entity. We will extend the policy of PS–94 to Mainland-Alaska fares.

We have found the lack of a record on intra-Alaska operations, however, quite limiting. Intra-Alaska operations include some very thin routes over very rugged terrain, and we need to take a closer look at the effects of any regulatory changes before taking action. While we doubt that the current fare ceilings help solve any real problem, we will perform additional studies before making a decision. Pending further action, intra-Alaska fares will continue to be governed by the statutory zones of reasonableness, with case-by-case determinations on fares outside of the zones.

Hawaii

Hawaiian consumer and governmental interests did not file comments in response to PSDR–66. (The State of Hawaii's comments in response to EDR–373A, regarding SIFL, were discussed above.) Aloha and Hawaiian Airlines did join in ATA's comments favoring full upward flexibility.

Mainland-Hawaii operations raise no special issues. Always recognized as highly competitive, these markets have recently attracted new low-fare entry. We will apply PS–94's policy to these long-haul markets.

Intra-Hawaii operations are less clear-cut. These are predominantly shorter haul operations in the under-400-mile range. The special circumstances supporting PS–94's no-ceiling concept in the under-200-mile range—competition by surface modes and the need to compensate for the long-haul bias in the fare taper—are not paresent. Moreover, strongly increased competition is relativley less likely here than in the Mainland States. The two incumbents may be all the market will support, and the relatively high capital investment needed to start up operations—the lack of existing ground facilities requires any new entrant to begin operations from scratch—must diminish the threat from potential competition.

Other factors, however, support increased flexibility. First, the legal barriers to entry have certainly diminished and will not materially recede further before 1983; there may be no better time than during a recession, which is hurting Hawaiian traffic, to begin the transition to full fare freedom. Second, the traffic is substantially discretionary and price-elastic. Lastly, current financial results do not reflect monopoly profits for the carriers involved. In 1979, Aloha made a modest $999,000 profit and Hawaiian had a pretax loss.

After balancing these factors, we have decided to apply a 30%-above-SIFL upward ceiling in these markets. This is high enough above present fares to provide the carriers with substantial flexibility without providing a price target. It is low enough to reflect the relatively higher barriers to entry in these markets as compared to domestic operations of similar stage length.

COHEN, Chairman, and Members BAILEY, SCHAFFER and DALLEY concurred. Member DALLEY filed the following concurring statement:

Dalley, Member, Concurring:

I, too, would like to see optimum fares in the Mainland-Puerto Rico markets. A level of fares which will provide full service at economic rates is desirable in the short run for obvious reasons but is essential in the long run to ensure the very viability of the market.

While I generally believe that lower fares for this market are better fares, I am reluctantly persuaded to accept a liberal 30 percent upward fare flexibility level and an accompanying possibility of fare increases. I favor a fare policy for Puerto Rico which will provide it with a full range of airlines and price/service options to choose from; I am concerned that the present market does not contain those choices and am therefore prompted to look to a fare scheme different from the status quo.

I resisted the 130% ceiling because I felt—and still feel—that the Puerto Rico market deserves specific analysis and I am not satisfied that a persuasive case has been made of the need to raise fares in that specific market. In addition, the current carriers have been raising their fares steadily while enjoying a strong capacity position (widebodies) and high load factors (70–75%) in the key N.Y.-

[6] Appendix B shows a typical array of fares and service in mainland-Alaska markets.

San Juan market (75% of the total U.S.-Puerto Rico traffic). I concur only because it is clear that at the present time other carriers do not see the market as sufficiently attractive to enter, and my hope is that slightly higher fares will induce this competition. I concur also because of the narrowing of the gap between peak and off peak fares and the almost total absence of discount fares in the market.

I have not found persuasive the majority arguments for changes based on allegations that load factors in the market have risen to extremely high levels and that flight frequencies have fallen to extremely low levels. Load factors in this market have always been high and in many cases carriers have rescheduled widebody equipment in lieu of standard size. What I find alarming by its absence is a full range of fares, notably deep discount options, being offered by the carriers operating in the market as well as a dearth of carriers actually operating in the markets against the total number that are authorized. I trust that our action here will provide the right market conditions to return a wider range of price/service options to the traveling public.

I will want the staff of the Board to look very closely at what happens in this market under the 130% SIFL level to see if the higher fares allowed will stimulate competition and fare differentiation. If it does not, and only serves to strengthen the new monopoly position of the current carriers in the market, my worst fears will have been realized and the Board will have a responsibility to take corrective action in this market.

I also base my concurrence on the fact that under the Airline Deregulation Act we have the mandate to allow the marketplace to accomplish the task of setting a fare structure that, as the Commonwealth of Puerto Rico brief states, "is at once responsive to the needs of the communities served and of the traveling public and also provides the opportunity for compensating services by efficient air carriers." Although greatly sympathetic to the Commonwealth's request for a further delay in applying this increased upward fare flexibility to the Mainland-Puerto Rico market, I concur in its application in the belief that further delay may disadvantage this market by promoting the shift of resources by the airlines now serving Puerto Rico to other markets where we have already permitted increased fares of 30% and more.

George A. Dalley

Accordingly, the Civil Aeronautics Boards amends Subpart C of 14 CFR Part 399, *Statements of General Policy*, as follows:

1. The Table of Contents is amended by adding a new § 399.34, to read:

Subpart C—Policies Relating to Rates and Tariffs

Sec.

* * * * *

399.34 Intra-Hawaii and Intra-Puerto Rico/Virgin Islands fare flexibility.

* * * * *

2. In § 399.31, paragraph (b) is amended, and a new paragraph (e) is added, to read:

§ 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, the predominant fare in effect on July 1, 1977, is presumed to be as set forth below. The presumption may be rebutted, however, by showing that more passengers used a higher fare.

(1) For U.S. Mainland-Puerto Rico/Virgin Islands markets where the Board has specified day-of-week fare differentials: the peak-season midweek fare appearing in tariffs in effect on July 1, 1977.

(2) For U.S. Mainland-Puerto Rico/Virgin Islands markets where the Board has specified only seasonal fare differentials: the off-peak-season fare appearing in tariffs in effect on July 1, 1977.

(3) For U.S. Mainland-Hawaii markets: the peak-season second class fare appearing in tariffs in effect on July 1, 1977.

(4) For all other interstate and overseas markets: the lowest unrestricted fare in effect on July 1, 1977.

(c) *Adjustments for cost increases.* * * *

(d) *Intrastate markets in California, Florida, and Texas.* * * *

(e) *Intra-Hawaii markets.* For intra-Hawaii markets, the Board's flexibility zones are based not on the SIFL, but on the standard Hawaiian fare level ("SHFL"), which is equal to 110 percent of the first class fare in effect on July 1, 1977, as adjusted by the Board for cost increases.

3. In § 399.32, paragraph (a) is 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 air carriers in the following areas, except to the extent that greater flexibility is set forth in § 399.33:

(1) Within the 48 contiguous States and the District of Columbia ("the Mainland"); and

(2) Between the Mainland and Puerto Rico, the Virgin Islands, Hawaii, or Alaska.

* * * * *

4. In § 399.33, the opening sentence is amended to read:

§ 399.33 Additional fare flexibility.

For scheduled service in the areas set forth in § 399.32(a), certificated air carriers have the following fare flexibility in addition to that set forth in § 399.32: * * *

* * * * *

5. A new § 399.34 is added, to read:

§ 399.34 Intra-Hawaii and Intra-Puerto Rico/Virgin Islands fare flexibility.

For scheduled service within Hawaii, and within and between Puerto Rico and the Virgin Islands, certificated air carriers have the fare flexibility set forth in §§ 399.32 and 399.33, except that—

(a) Instead of the limits set forth in § 399.32(d), the upper limit of the zone for Puerto Rico/Virgin Islands is 30 percent above the SIFL, and for Hawaii is 30 percent above the SHFL; and

(b) The fare flexibility set forth in § 399.33(a) (first class) does not apply to service within Hawaii.

(Secs. 204, 403, 404, 1002, 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.

Appendix A.—*United States-Puerto Rico Entity*

[Normal fares in selected markets—comparison with SIFL]

Market	Ratemaking mileage	DPFI formulafare July 1977	July 1977 normal fare level				DPFI formula May 1980	May 1980 normal fare level			
			Peak		Offpeak			Peak		Offpeak	
			Midweek	Weekend	Midweek	Weekend		Midweek	Weekend	Midweek	Weekend
Atlanta	1,547	$130.81					$203.53				
Eastern			$113	$113	$107	$107		$176	$176	$166	$166
Boston	1,674	139.04					216.33				
American								209	218	199	209
Eastern			122	128	116	122		209	218	198	209
Chicago	2,072	164.83					256.45				
American			149	149	143	143		232	232	222	222
Eastern			149	149	143	143		232	232	222	222
Miami	1,045	97.09					151.06				
American								121	131	113	121
Delta								121	131	113	121
Eastern			78	84	72	78		121	131	112	121
Pan Am (National)			78	84	72	78		122	122	122	122
New York	1,597	134.05					208.57				
American			108	114	102	108		175	196	175	196
Eastern			108	114	102	108		175	196	175	196
Pan Am											
								147	147	147	147
Phildelaphia	1,576	132.69					206.45				
American			115	121	109	115		197	208	187	197
Eastern			115	121	109	115		175	196	175	196
Washington	1,565	131.97					205.34				
American			114	120	108	114		187	197	176	187
Eastern			114	120	108	114		195	206	184	195
Pan Am (National)											
								147	147	147	147

Appendix B.—*Selected Fare and Service Data for Seattle-Alaska Markets*

Market	Ratemaking mileage	Actual July 1977 Y fare	DPFI formula fare May 1980 [1]	SIFL formula fare May 1980 [2] [10]	Y fare as of June 1980 [2]		O. & D. passengers Y/E Aug. 30, 1979 [3]	Carriers providing single plane service June 1980 [4]
					Alaska Airlines	Wien Alaska		
Seattle:								
Anchorage	1,448	$119.00	$193.52	$185.14	$159	$159	196,630	AS/NW/WA/WC
Cordova	1,293	118.62	176.85	184.55	178		4,330	AS
Fairbanks	1,533	131.00	201.85	203.81	204	204	44,810	AS/NW/WC
Gustavus (Via JNU)	950	109.62	140.74	170.55	138		1,340	AS
Juneau	909	90.62	137.04	140.99	141	141	40,110	AS/WC
Ketchikan	680	71.62	112.96	111.43	112	112	34,970	AS/WC
Petersburg (Via KTN)	790	89.22	124.07	138.81	138		6,870	AS
Sitka	862	85.62	131.48	133	133.21		17,240	AS
Wrangell (Via KTN)	762	89.22	121.30	138.81	138		4,120	AS
Yakutat	1,092	117.62	155.56	182.99	175		1,500	AS
Kenai [5]	1,468	124.28	198.37	193.35		159	2,470	WC
King Salmon [6]	1,603	167.94	209.26	261.28		200	4,090	WC
Prudhoe Bay [7]	1,802	190.74	229.63	296.75		273	960	WC
Kodiak [8]	1,439	119.00	192.59	185.14		155	11,140	WC
Homer [9]	1,449	143.40	193.52	223.10		159	1,250	WC

[1] $25.14 plus 13.75¢ per Mile (0–500); 10.49¢ per Mile (501–1500); 10.08¢ per Mile (1501 and over). See Order 80–4–211.
[2] Domestic Tariffs.
[3] O. & D. Origin Destination Survey of Airline Passenger Traffic, Table 8, 12 months ended September 30, 1979.
[4] AS = Alaska Airlines; NW = Northwest Orient Airlines; WA = Western Airlines; WC = Wien Air Alaska.
[5] Via Anchorage ($15.28).
[6] Via Anchorage ($48.94).
[7] Via Fairbanks ($59.74).
[8] Local WA Fare.
[9] Via Kodiak ($24.40).
[10] July 1977 fare increased by cumulative adjustment factor of 1.5558% per Order 80–4–211.

Appendix C.—*Adjustment of the Intra-Hawaiian Fare Level July 1, 1977, To Reflect Cost at 12.35 Percent Return*

	Regulatory actual Y.E. March 1977			Cost inflation adjusted to July 1, 1977			July 1, 1977, at 12.35 pct R.O.I.
	Aloha	Hawaiian	Total	Aloha	Hawaiian	Total	
RPM's (000)	321,578	404,793	726,371	321,578	404,793	726,371	726,371
ASM's (000)	489,128	638,050	1,127,178	489,128	638,050	1,127,178	1,127,178
Load Factor (percent)	65.75	63.44	64.44	65.75	63.44	64.44	64.44
Yield (dollars) [1]	$0.1427	$0.1453	$0.1441	$0.1427	$0.1453	$0.1441	$0.1589
Operating Revenue—Total	$47,648	$71,599	$119,247				
Passenger Related Revenue	$46,301	$59,942	$106,243	$46,301	$59,942	$106,243	$116,966
Operating Expense—Total	$45,195	$68,836	$114,031				
Passenger Related Expenses	$43,858	$57,501	$101,359	[1] $45,937	$59,013	[1] $104,950	$104,950
Operating Profit—Passenger	$2,443	$2,441	$4,884	$364	$929	$1,293	$12,016
Interest Expense	$741	$2,583	$3,324	$741	$2,583	$3,324	$3,324
Earnings Before Tax	$1,702	$(142)	$1,560	$(377)	$(1,654)	$(2,031)	$8,692
Tax at 48 Percent	$817	$68	$749	$181	$794	$975	$4,172

Appendix C.—*Adjustment of the Intra-Hawaiian Fare Level July 1, 1977, To Reflect Cost at 12.35 Percent Return*—Continued

	Regulatory actual Y.E. March 1977			Cost inflation adjusted to July 1, 1977			July 1, 1977, at 12.35 pct R.O.I.
	Aloha	Hawaiian	Total	Aloha	Hawaiian	Total	
Net Income	$885	$(74)	$811	$(196)	$(860)	$(1,056)	$4,520
Return Element	$1,626	$2,509	$4,135	$545	$1,723	$2,268	$7,844
Investment	$16,192	$47,326	$63,518	$16,192	$47,326	$63,518	$63,518
Return on Investment (percent)	10.04	5.30	6.51	3.37	3.64	3.57	12.35
Increase Factor [3]							10.27

[1] Cost inflation to July 1, 1977; 1.047 percent for Aloha, 1.026 for Hawaiian. The differing rates for the two carriers, having equivalent aircraft and duplicate route structures, is due primarily to a shift by Hawaiian to larger DC-9-50 aircraft starting in the fourth quarter of 1976.

[2] Passenger revenue divided by RPM's.

[3] Passenger yield at 12.35 percent return divided by actual passenger yield for the year ended March 1977.

[FR Doc. 80-21713 Filed 7-18-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 366

Joint Export Associations; Deletion of Part

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule deletes regulations applicable to a former export expansion program that is now inactive.

EFFECTIVE DATE: July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Maurice E. Schweinhart, Office of Management and Systems, International Trade Administration, Department of Commerce, Washington, D.C. 20230, 202-377-3585.

SUPPLEMENTARY INFORMATION: The Deputy Assistant Secretary of Commerce for Export Development has determined that the regulations contained in Part 366 are obsolete and no longer necessary and should be deleted, in view of that fact that no additional contracts are contemplated for the joint export association program provided for under that part. He has also determined that notice and public procedure for the deletion of that part are unnecessary and are not in the public interest. Such deletion shall have no effect on any contract or amendments thereto that have been entered into pursuant to 15 CFR Part 366.

Part 366—Joint Export Associations [Deleted]

Accordingly, Part 366 is deleted from 15 CFR Chapter III.

Dated: July 3, 1980.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 80-21730 Filed 7-18-80; 8:45 am]

BILLING CODE 3510-25-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 8919]

Dancer-Fitzgerald-Sample, Inc.; 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 requires, among other things, a New York City advertising agency to cease disseminating advertisements which misrepresent, or fail to make relevant disclosures regarding, the contents, performance, effectiveness, or therapeutic superiority of Bayer Aspirin, Bayer Children's Aspirin, Cope, or similar non-prescription drug products manufactured by Sterling Drug Inc. Additionally, the order requires the firm to substantiate all representations made for non-prescription drug products concerning their performance, effectiveness and freedom from side effects.

DATES: Complaint issued February 23, 1973. Decision issued July 1, 1980.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PF, Melvin H. Orlans, Washington, D.C. 20580. (202) 724-1529.

SUPPLEMENTARY INFORMATION: On Friday, April 18, 1980, there was published in the **Federal Register**, 45 FR 26344, a proposed consent agreement with analysis In the Matter of Dancer-Fitzgerald-Sample, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.10-5 Knowingly by advertising agent; § 13.20 Comparative data or merits; § 13.20-20 Competitors' products' § 13.45 Content; § 13.170 Qualities or properties of product or service; 13.170-6 Analgesic; § 13.170-52 Medicinal, therapeutic, healthful, etc.; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.280 Unique nature or advantages. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures. Subpart-Disseminating Advertisements, Etc.: § 13.1043 Disseminating advertisements, etc. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1575 Comparative data or merits; § 13.1605 Content; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported; § 13.1770 Unique nature or advantages. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1850 Content; § 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, 52))

Carol M. Thomas,

Secretary.

[FR Doc. 80-21729 Filed 7-18-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Certain Fasteners From India; Final Countervailing Duty Determination and Countervailing Duty Order

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

ACTION: Final Countervailing Duty Determination and Countervailing Duty Order.

SUMMARY: This notice is to advise the public that the Department of Commerce has determined that the Government of India confers benefits upon the production or export of certain fasteners which constitute subsidies within the meaning of the countervailing duty law. Future imports of this merchandise will be subject to the payment of countervailing duties.

EFFECTIVE DATE: July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Supervisory Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-5496).

SUPPLEMENTARY INFORMATION:

Background

On January 30, 1980, the Department of Commerce received a petition in satisfactory form on behalf of domestic producers of certain industrial fasteners, alleging that bounties or grants (subsidies) are being provided on the manufacture, production, or exportation of certain industrial fasteners from India. A "Notice of Initiation of Countervailing Duty Investigation" was published in the **Federal Register** on February 25, 1980 (45 FR 12277). A notice of "Preliminary Affirmative Countervailing Duty Determination" was published in the **Federal Register** on April 30, 1980 (45 FR 28786).

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150) (the TAA) went into effect. The TAA added Title VII to the Tariff Act of 1930, (the Act) which superseded section 303 of the Tariff Act of 1930 for any country determined to be a "country under the Agreement", as defined in section 701(b) of the Act (19 Stat. 151, 19 U.S.C. 1671(b)). Title I also amended section 303 of the Act (13 U.S.C. 1303) for those countries determined not to be a "country under the Agreement". Subsidy investigations under section 303 are to be conducted in accordance with the provisions of Title VII, with a few exceptions. The only exception of interest in this case is that investigations under section 303 are not to include injury determinations by the International Trade Commission. India is not presently a "country under the Agreement." This case is, therefore, governed by section 303 of the Act. Accordingly, we will not refer this case to the International Trade Commission for a determination of material injury.

The industrial fasteners covered by this Determination enter the United States under the following item numbers of the Tariff Schedules of the United States (TSUS)—646.49, 646.54, 646.56, 646.58, 646.60, and 646.63.

Nature of Industry

The Indian fastener industry is made up primarily of small firms which produce only fasteners. A few firms do produce other similar items. Fastener production is labor intensive. The materials used are, for the most, supplied locally rather than being imported.

Many of the fastener producers export their total production. All exporters of industrial fasteners are required to belong to the Export Engineering Promotion Council (EEPC). Many of the manufacturers also belong to the Trade Development Authority (TDA). Both of these organizations assist in export promotion.

Programs Investigated

The petitioner has alleged that Indian exports of industrial fasteners to the United States receive a variety of subsidies, most of which are direct export subsidies.

The major program involved is a system of cash compensatory supports for exports. Representatives of the Indian exporters have argued that this program should be considered a rebate of indirect taxes which are not otherwise rebated to exporters and, therefore, payments made under it should not be considered subsidies. The other programs investigated are, in terms of the benefit to the exporter, far less significant.

Since the preliminary determination in this case, counsel for the petitioner has requested that the investigation be expanded to cover raw material subsidies, preferential freight rates and a proposed export promotion program. Information presented concerning the alleged raw material subsidies and the proposed export promotion program did not provide a sufficient basis upon which to expand the investigation. If additional information is furnished, we could investigate these programs. We have, however, obtained evidence that preferential freight rates are not available to exporters of fasteners.

Programs Found to be Subsidies

Of the programs investigated, we have determined that the following constitute subsidies within the meaning of the countervailing duty law:

1. *Cash Compensatory Support on Export (CCS)*—The CCS program was introduced in 1966 and, since then, has been revised periodically. The Government of India has stated that the primary—but not exclusive—purpose of the CCS program is to compensate exporters for various indirect taxes paid, and not otherwise rebated, on export. CCS payments are designed to support exports in a manner consistent with the competitive need of Indian producers.

The CCS rate varies depending upon the product exported. It is determined after taking into account the incidence of indirect taxes paid by producers of a particular product and not otherwise refunded, the existence of other disincentives to exports, and the competitive need of the producers. There is no "right" to CCS payments; none are granted even where there are indirect taxes not otherwise rebated if the Government of India decides that the competitive need of a particular industry does not warrant CCS payments.

In the case of fasteners, the CCS rate was established, effective April 1, 1979, at 17.5% of the f.o.b. value of the exported merchandise. In October, 1978, the Ministry of Commerce had requested all Export Promotion Councils, including the EEPC (which represents the fastener industry), to submit updated information on the indirect taxes levied on specific products. The Ministry stated that this information was needed to determine revised CCS payment levels. The CCS rate for fasteners was established after the data on the incidence of indirect tax levels paid by fastener exporters has been reviewed.

The issue presented by the CCS program is clear-cut. Can CCS payments to exporters of fasteners reasonably be considered non-excessive rebates of indirect taxes not otherwise rebated on export? If so, they are not subsidies within the meaning of the countervailing duty law; if not, they are subsidies.

The non-excessive refund of indirect taxes levied on exported products and

their components is not a subsidy under rules of General Agreement on Tariffs and Trade (GATT) or the U.S. countervailing duty law. While the TAA limited the use of indirect taxes not rebated on export as *offsets* against the amount of any subsidy found, it did not intend this limitation on the use of offsets to:

"prohibit the administering authority from determining that export payments are not subsidies if those payments are reasonably calculated, are specifically provided as non-excessive rebates of indirect taxes within the meaning of Annex A of the (Agreement on the Interpretation and Application of Articles VI, XVI, and XXIII of the GATT) and are directly related to the merchandise exported". (Senate Rept. No. 96-249, July 17, 1979 at 84-85).

Thus in determining whether the CCS program is a subsidy, the primary considerations are (1) whether the CCS program operates for the purpose of rebating indirect taxes, (2) whether there is a clear link between eligibility for CCS payments and payment of indirect taxes, and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by exported fasteners and has demonstrated a clear link between such tax incidence and the amount of the CCS payments.

We will not accept *ex post facto* rationalizations of subsidy programs designed to meet these criteria. In this case, the actions of the Indian Government affecting the structure of the CCS program were taken well before the filing of the countervailing duty petition. Accordingly, we have determined that the explanation advanced on behalf of the Indian producers is not an *ex post facto* rationalization of a pre-existing subsidy program.

Counsel for petitioner has argued that a number of factors require the conclusion that, by its very structure, the CCS program cannot be considered a rebate of indirect taxes. Counsel has pointed out that the program is designed to serve objectives other than the rebate of indirect taxes, that CCS payments are not available by right to Indian producers, and that the Ministry which operates the program is not the taxing authority.

We do not believe that any of these points is decisive. What the Indian Government may or may not hope to accomplish from the CCS payments does not determine the nature of the payments. There is nothing contradictory about rebating indirect taxes for the purpose of strengthening export performance. Similarly, the fact that the Government of India reserves the right not to grant CCS payments has no bearing on whether, when made, the payments are or are not indirect tax rebates. Finally, we do not believe that it is appropriate for the Department to determine the character of CCS payments because they are made by one government agency as opposed to another. The question is not how the funds are distributed but whether the payments constitute *bona fide* rebates of indirect taxes.

Our determination in this case turns not on such general arguments, but rather on specific analysis of the relationship between the CCS payments and the incidence of indirect taxes borne by fastener exports. The link between the indirect tax incidence and the CCS payments has not been satisfactorily demonstrated.

We have reviewed data on the actual indirect taxes paid by five producers which export to the United States and which provided the Indian Government with information for purposes of fixing the level of CCS payments. For all but one, the total indirect taxes paid were less than 17.5% of the value of the merchandise. Moreover, these tax calculations included several payments (i.e., payments to an import pool fund, a development surcharge, an engineering goods export assistance fund, a port trust fund, port congestion charges and taxes on electricity and fuel) that we would not consider indirect taxes which may be rebated on export. Thus the CCS program, as it is applied to exporters of industrial fasteners, does not appear to involve indirect tax rebates as much as it does a general export payment which, while undoubtedly compensating in some measure for indirect taxes which were not otherwise rebated, goes well beyond this purpose.

In addition to the difference in incidence of indirect taxes and the level of CCS payments, the manner in which the information on the tax levels was submitted to the Government of India and relied on raises, of itself, certain problems. The Commerce Ministry required the Export Promotion Council governing the fastener sector to submit information relating to its indirect tax burden. Some individual company experiences were provided by the Ministry without an appropriate aggregation (except for one category of fasteners) showing the weighted average tax incidence for the sector as a whole. In order to satisfy the question of whether export payments are made to remit indirect taxes, we would require evidence demonstrating that the tax incidence of any given product sector had been determined quite precisely. In this case, there is no such satisfactory evidence.

Since the Government of India has not satisfactorily demonstrated the requisite linkage between the indirect tax incidence and the level of CCS payments, nor has shown that the actual indirect tax incidence has been reasonably calculated and documented, we have concluded that, in this case, the CCS payments must be considered a subsidy program and have found the amount of subsidy to be 17.5% of the f.o.b. value of the exported merchandise.

2. *Preferential Export Financing*—Packing credit loans are available to exporters of industrial fasteners. These loans have a sliding scale interest rate which varies with the duration of the loan. The interest rate ranges from 11% to 17%. Normal credit terms range from 11% to 18%, with an average interest rate of approximately 15%.

In this case, the Government of India (through the Reserve Bank of India) apparently underwrites the lower interest rate by paying the lending bank an additional 1.5% interest rate without any charge to the exporter. There is a direct transfer of funds to support the loan from the Central Bank to the lending bank.

Accordingly, we have found that packing credit loans involve a subsidy of 0.4% of the f.o.b. value of the exported merchandise.

3. *Tax Deductions*—The GOI has a program which allows for a special income tax deduction for export market development.

The Export Markets Development Allowance provides for a tax deduction of 133% of certain specific expenses. These include expenses incurred both before and after sale. However, commissions normally are not an allowable deduction unless they are tied to other specific expenses. The claims made by the manufacturers for this special deduction normally exceed the amount eventually allowed for deduction by the tax authorities. Final settlement of the tax returns normally takes 2 to 3 years.

Since the expenses allowed under the special deduction would normally be deductible in full, the benefit to the manufacturers would be 33 percent of the allowed amount applied to the corporate tax rate. On this basis, we have determined that exporters of fasteners receive a subsidy under this program in the amount of 0.1% of the f.o.b. value of the exported merchandise.

Programs Not Used by the Exporters

1. *Import Permits*—Indian exporters of galvanized fasteners are eligible to receive automatically permits to import

goods used in the manufacture of such fasteners. The amount which may be imported under a permit is calculated with reference to a fixed percentage of the f.o.b. value of the exported fasteners. The purpose of the program is to allow manufacturers/exporters to replenish their stock of imported inputs. The permits are negotiable. To extent they have a market value, they could confer a special benefit upon the manufacturer/exporter. However, we have found that the permits obtained by the fasteners manufacturers are not resold and thus do not constitute a subsidy within the meaning of section 303 of the Act.

2. *Kandla Free Trade Zone*—The petition alleged that benefits were received by manufacturers or exporters of industrial fasteners based on their location within the Kandla Free Trade Zone. Information has been provided which shows that one company has been given a license to locate in the zone but to date has not produced or exported fasterners from the zone. Thus, there is no question of any benefit that would constitute a subsidy within the meaning of the countervailing duty law.

Programs Found Not to be Subsidies

1. *Tax Deductions for Capital Equipment and New Industrial Undertakings*—The Government of India allows income tax deductions for purchases of new capital equipment and establishment of new industrial enterprises. We have found that these deductions are generally available (i.e., they are not industry or enterprise specific) and therefore have concluded that they are not subsidies as defined in section 771(5) of the Act.

2. *Market Development Assistance*—Under the Market Development Assistance program grants have been provided for export promotion to the Engineering Export Promotion Council (EEPC) and the Trade Development Authority (TDA). These grants have been used by the EEPC and the TDA to operate overseas offices and organize exhibits designed to promote Indian exports generally. Firms which belong to these organizations pay dues which exceed any specific benefits they derive from EEPC and TDA activities. In addition, the firms are billed for all special services such as participation in trade shows, listing in directories, etc. We have, accordingly, decided that such market development assistance does not amount to a subsidy under the countervailing duty law.

Verification

Staff in our Office of Investigations verified the information relied upon in reaching this determination through examination of Government documents, discussions with Government, trade organizations, and corporate officials, and corporate books and records. Examples of the type of documents examined include an official report published by the Ministry of Commerce, announcements of Government programs, letters from banks, ledger sheets, and income tax reports.

Determination

I hereby determine that the Government of India provides bounties or grants (subsidies) within the meaning of section 303 of the Act and that the estimated aggregate net amount of these benefits equals 18.0% of the f.o.b. value of the exported merchandise.

The Department has afforded interested parties an opportunity to present oral views in accordance with § 355.35, Commerce Regulations (19 CFR 353.35, 45 FR 4946). In addition, written views and oral views have been received in accordance with § 355.34(a), Commerce Regulations (19 CFR 355.34(a), 45 FR 4946).

Customs officers are hereby directed to assess within 6 months after the date on which the Secretary of Commerce receives satisfactory information on which the assessment may be based, but in no event later than 12 months after the end of the annual reporting period of the manufacturer or exporter within which the merchandise is entered or withdrawn from warehouse for consumption, countervailing duties on entries of certain fasteners from India on which liquidation was suspended, equal to the amount of the net subsidy determined or estimated to exist. Those entries for which liquidation was previously suspended should be liquidated within six months of publication of this notice.

Effective on the date of publication of this notice in the **Federal Register** and until further notice, deposit of estimated countervailing duties shall be required at the time of entry, or withdrawal from warehouse, for consumption. The amount to be deposited in 18.0% of the f.o.b. value of the merchandise.

Annex III part 353 of the Department of Commerce regulations (19 CFR Part 355) is amended by inserting after the last entry for India the words "certain fasteners" in the column headed "commodity", the **Federal Register** citation of this notice in the column headed "Treasury Decision" and the words "Net Subsidy Declared—Rate" in the column headed "Action."

This notice is published pursuant to sections 303 and 706 of the Act (19 U.S.C. 1303, 1671(e)), and § 355.36 of the Department of Commerce regulations (19 CFR 355.36).

Robert E. Herzstein,

Under Secretary for International Trade.

[FR Doc. 80-21807 Filed 7-18-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 296

[T.D. ATF-73, Ref: Notice No. 334]

Regulations Relating to the Distribution of Cigarettes

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision requires each person who distributes more than 60,000 cigarettes in a single transaction to keep suitable commercial records of each disposition of more than 60,000 cigarettes. This rule implements the recordkeeping provisions of Pub. L. 95-575. The Bureau of Alcohol, Tobacco and Firearms feels that records of disposition maintained by persons who distribute more than 60,000 cigarettes in a single transaction would be useful in tracing the movement of contraband cigarettes and would help curtail the illicit traffic of cigarettes between States.

EFFECTIVE DATE: September 19, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas L. Minton, Research and Regulations Branch, 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background Information

On January 15, 1980, ATF published Notice No. 334 in the **Federal Register** (45 FR 2855) which proposed amending 27 CFR Part 296, by adding Subpart F—Distribution of Cigarettes. The purpose of this proposal was to implement the recordkeeping requirements of Pub. L. 95-575.

Interested persons were given until February 29, 1980, to submit relevant data, views, or arguments regarding this proposal. This Treasury decision is the result of that proposal.

Discussion of Regulations

These regulations amend 27 CFR Part 296—Miscellaneous Regulations Relating to Cigars, Cigarettes, and Cigarettee Papers and Tubes by adding a new Subpart F—Distribution of Cigarette. The requirements of this new subpart apply to each distributor of

cigarettes. A "distributor" is any person who sells, ships, issues, gives, transfers, or otherwise disposes of more than 60,000 cigarettes in a single transaction. Persons who distribute cigarettes in single transactions consisting of 60,000 or less are not considered a "distributor" under these regulations and are not subject to the requirements of this subpart.

Pub. L. 95–575 makes it unlawful for most persons to purchase, receive, possess, transport, ship, sell or distribute more than 60,000 cigarettes in a single transaction on which the State cigarette tax has not been paid. However, the law does allow certain persons to possess and handle cigarettes on which the State tax has not been paid. These persons are referred to in the regulations as "exempted persons." An exempted person is any person who—

(1) Holds a permit as a manufacturer of tobacco products or as an export warehouse proprietor;

(2) Operates a customs bonded warehouse;

(3) Is an agent for a tobacco products manufacturer, export warehouse proprietor, or customs bonded warehouse operator;

(4) Is a common or contract carrier transporting cigarettes under a proper bill of lading or freight bill which states the quantity, source, and destination of the cigarettes;

(5) Is licensed by the State in which he possesses cigarettes to account for and pay cigarette taxes imposed by that State and who has complied with the accounting and payment requirements with respect to any cigarettes involved;

(6) Is an agent of the United States, an individual State or a political subdivision of a State and who has possession of cigarettes in connection with performance of official duties; or

(7) Operates within a foreign-trade zone established under 19 U.S.C. 81b, when the cigarettes involved have been entered into the zone under zone-restricted status, or in respect to foreign cigarettes, have been admitted into the zone but which have not been entered into the United States.

Each distributor of cigarettes is required to show certain information on commercial records relating to each disposition of more than 60,000 cigarettes. The type of information required to be kept depends on whether the parties involved in the transaction are "exempted persons."

Discussion of Comments

Several written comments were received in response to the notice of proposed rulemaking. Most of the commenters agreed with the objectives of the regulations and were concerned about the detrimental effects which the traffic in contraband cigarettes has had upon the States involved and on the legitimate cigarette industry. Some commenters suggested changes and voiced questions concerning the regulations. A discussion of the comments follows.

Definition of Contraband Cigarettes

One commenter suggested that the definition of "contraband cigarettes" be revised to exclude untax-paid cigarettes used for experimental purposes. Under 26 U.S.C. 5704(a), cigarettes used for experimental purposes are exempt from Federal excise taxes. Section 270.232, 27 CFR, allows, with the prior approval of ATF, the shipment of cigarettes exempt from Federal taxes to research facilities. The commenter felt that these cigarettes would be subject to seizure as contraband and should, therefore, be excluded from the definition of contraband cigarettes.

ATF has decided against modifying the definition of contraband cigarettes for several reasons. First, cigarettes used for experimental purposes cannot be excluded from the contraband cigarette category since the Congress enacted a specific definition of the term "contraband cigarettes."

Further, ATF does not believe that the definition of contraband cigarettes will adversely affect the distribution of cigarettes used for experimental purposes. The exemption of Federal taxes on cigarettes used for experimental purposes is irrelevant to the contraband cigarette definition. Rather, the question of whether cigarettes are contraband revolves on the applicable *State* taxes. Therefore, in States which do not impose a tax on cigarettes used for experimental purposes, these cigarettes cannot be contraband. However, if a State does impose a tax on cigarettes used for experimental purposes, then all applicable State requirements must be complied with prior to disposing of the cigarettes in quantities of more than 60,000 to other than an exempted person.

Definition of Exempted Person

(1) *Agents.* Two commenters suggested that the definition of "exempted person" be broadened to include all employees or representatives who may not be actual agents of a tobacco products manufacturer, export warehouse proprietor or customs bonded warehouse operator but are acting on their behalf. This proposed definition would include operators of private and public warehouses storing cigarettes for a manufacturer and contract distributors of complimentary products.

The category of persons who may possess or handle untaxpaid cigarettes are specifically listed in the law. For this reason, ATF is unable to broaden the definition of "exempted person" to include representatives of manufacturers, export warehouse proprietors, and customs bonded warehouse operators who are not agents of these principals.

However, ATF considers employees acting on behalf of their employers to be agents of their employers. Also, most manufacturers often use public warehouses as their regional distribution facilities. The manufacturer usually stores its cigarettes in the public warehouse for shipment to accounts in the particular region where the warehouse is located. The manufacturer maintains title to the cigarettes and is responsible for the sale of the cigarettes, while the warehouse operator makes disposition of the cigarettes by releasing them for delivery to the customers of the manufacturer as required by the manufacturer. In these cases, the warehouse operator is acting as an agent for the manufacturer and is, therefore, considered an exempted person.

(2) *Government employees.* One commenter felt the regulations should be clarified to include expressly the employees of the Puerto Rican, the District of Columbia, and the Virgin Islands governments as exempted persons in the same category as "State" employees. ATF agrees. Pub. L. 95–575 includes these jurisdictions in the statutory definition of the term "State." ATF fully intended the regulations to include employees of these jurisdictions in the same category as employees of any State. In order to eliminate any confusion over this issue, § 296.143 is changed to include the statutory definition of the term "State." The term "State" is defined in the regulations as, "a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands."

(3) *Carriers.* Section 296.143 basically defines a "common or contract carrier" as a carrier holding a valid operating authority under the Interstate Commerce Act, or an equivalent operating authority from a regulatory agency of the United States or of any State.

One commenter stated that some States do not require any operating authority for local for-hire carriers operating within a limited jurisdiction. The commenter stated that these local unregulated dray operators often service

the cigarette industry by conveying untaxpaid cigarettes from the manufacturer's distribution facility to the licensed wholesaler. By doing so, however, the unregulated carriers may be in violation of the law by possessing untaxpaid cigarettes since these carriers are not exempted persons. The commenter suggested expanding the definition of common or contact carrier to include local carriers operating within an unregulated jurisdiction in accordance with the laws of that jurisdiction.

The definition of common or contract carrier in § 296.143 parallels the statutory definition in Pub. L. 95–575. The law is specific. The legislative history of the law shows that the Senate bill, the House bill, and the conference committee recommendation intended to limit the independent transportation of untaxpaid cigarettes in quantities of more than 60,000 to regulated carriers. Therefore, the definition of common or contract carrier cannot be expanded. Local unregulated carriers may transport untaxpaid cigarettes only when acting as an agent for a manufacturer of tobacco products, export warehouse proprietor, or customs bonded warehouse operator. However, ATF believes that a local unregulated carrier transporting a manufacturer's untaxpaid cigarettes to the manufacturer's customer in the same state under the manufacturer's invoice would be acting as an agent for the manufacturer in making that delivery.

(4) *Licensed distributors.* One commenter questioned the meaning of the language in the definition of "exempted person" requiring that the distributors licensed by a State account for and pay the applicable State tax. This language states that a licensed cigarette distributor qualifies as an exempted person only when the distributor "has complied" with accounting and payment requirements relating to the State license and with respect to the cigarettes involved.

The commenter felt that because the definition is phrased in the past tense, it could pose a problem for the cigarette distributor who is in compliance with accounting and payment requirements at a specific instant yet has not complied by making actual payment or by making an actual accounting at the moment the licensed person takes possession of the untaxpaid cigarettes. The commenter cited an example where a State may permit a licensed distributor to hold cigarettes without the application of State indicia for a specified period of time after receipt, usually not exceeding 48 hours. Also, the commenter felt that a problem may arise where special circumstances or emergencies may dictate that the compliance requirements of the State cannot be met.

The language in the definition concerning a licensed distributor's compliance with State requirements was adopted from the law. ATF feels that the present language should not pose a problem. The definition does not require a licensed distributor to immediately account for and pay the State tax in order to be an exempted person unless the State requires immediate accounting and payment. The distributor must have complied with the State's accounting and payment *requirements.* If the State's requirements allow a licensed distributor to hold cigarettes before accounting for and paying the applicable taxes, then at any specific instant during the allowed holding period, the distributor has complied with the State's accounting and payment requirements even though the distributor has not yet accounted for or paid the tax.

A similar interpretation applies in cases where an emergency or special circumstance causes a deviation from the normal compliance requirements of the State. Where the State allows a deviation from normal compliance requirements in emergencies or under special circumstances, the distributor has complied if the allowed procedures have been followed. In all cases, the licensed distributor must have complied with all applicable State accounting and payment requirements up to the specific instant in question.

Recordkeeping Requirements

A commenter suggested that a distributor should not be required to maintain records concerning dispositions of cigarettes if the dispositions are carried out on behalf of a tobacco products manufacturer and the manufacturer's records show the required information concerning the dispositions. This commenter also stated that the retention period in § 296.150 was much longer than the period for which these records are normally maintained by public warehouse operators. The commenter felt that the required retention period would place an undue burden on some distributors.

Section 2343(a), 18 U.S.C., places the recordkeeping requirements on "Any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction * * *." Therefore each distributor must meet the recordkeeping requirements for qualifying dispositions. Also, the purpose of the recordkeeping requirement is to assist ATF in tracing the movement of contraband cigarettes. By maintaining disposition records at a location other than the business premises, a possible violator could hamper an investigation.

Section 296.150 requires each distributor to maintain records of disposition for 3 years following the close of the calendar year in which the records are made. ATF feels that this retention period will not normally impose a burden on most distributors. Tax-related records are customarily retained over a period of several years. Further, by allowing disposition records to be discarded shortly after a cigarette disposition is made, ATF would lose an important investigative tool specifically provided for in the authorizing legislation.

However, ATF realizes that situations may arise where a distributor's required records may be duplicated by the tobacco products manufacturer. Therefore a provision has been added to § 296.150 which permits, in certain circumstances, distributors to apply for permission to employ a shorter record retention period. This provision applies where the distributor is an agent of a tobacco products manufacturer, the manufacturer will keep the required record of the distributor's dispositions for the full retention period, and a shorter retention period will not unduly hinder the administration or enforcement of these regulations. Each distributor proposing to employ a shorter retention period must apply to the regional regulatory administrator of the region in which the distributor is located. A definition of "regional regulatory administrator" is added to § 296.143.

Other Comments

(1) *Name of purchaser.* A commenter felt that the requirement to show the full name of the purchaser on records of disposition could cause confusion to distributors in cases where there may not be a purchaser. This confusion could arise where cigarettes are being shipped to research facilities, sampling contractors, or public warehouses for storage until sold. In cases such as these, the recipient is not a purchaser.

ATF agrees that a situation may arise where the recipient is not a purchaser. Therefore, § 296.147(a)(1)(i) is changed to require the name of the recipient of the cigarettes when there is no purchaser. Section 296.147(a)(1)(i) now reads—

"(i) The full name of the purchaser (or the recipient if there is no purchaser);". Also, a parenthetical phrase is added to § 296.147(a)(2)(i) to indicate that the name of the purchaser is not required

when there is no purchaser. Section 296.147(a)(2)(i) now reads—

"(i) The full name of the purchaser (if any);".

(2) *Government agencies and instrumentalities.* The government instrumentality which handles cigarettes for sale on military reservations requested specific regulatory language exempting it from the recordkeeping requirements of this subpart.

ATF agrees that government agencies and instrumentalities are exempt from the requirements of this rule. The conference report indicates that Congress has intended the definition of "person" in 1 U.S.C. 1 to apply in this case. Government agencies and instrumentalities are not included in that definition.

Also government agencies and instrumentalities are not included in the definition of "person" in these regulations. Since the regulatory definition of "person" is clear, ATF does not feel that any further specific regulatory language is necessary.

(3) *Government access to records.* One commenter objected to § 296.153(a) which permits any ATF officer to enter the business premises of any cigarette distributor to inspect the records required by these regulations pursuant to either an administrative inspection warrant or a criminal search warrant. The commenter felt that this rule was an "attempt by regulations to change the statutory requirements for a 'search warrant' into a regulatory requirement for an 'administrative inspection warrant.' "

Public Law 95–575 authorizes ATF officers, as agents of the Secretary of Treasury, to enter a distributor's premises upon that distributor's consent or in accordance with a "duly issued search warrant." There is no specific mention of an administrative inspection warrant in the law itself. The legislative history of both the Senate bill, S. 1487, and the House bill, H.R. 8853, indicate that the search warrant requirement was intended to bring the law in line with the Supreme Court's decision in *Marshall v. Barlow's, Inc.*, 436 U.S.C. 307 (1978), wherein the Court set out guidelines for the use of administrative inspection warrants. *See Senate Rep. No. 95–962*, 95th Cong., 2d Sess. 18 (1978); and *H.R. Rep. No. 95–1629*, 95th Cong., 2d Sess. 8 (1978). Therefore, these regulations reflect the Congressional intent by authorizing the use of an administrative inspection warrant.

(4) *Splitting dispositions.* The Departments of the Revenue of two States submitted comments concerning the language in § 296.146 relating to a cigarette distributor dividing a single agreement for the disposition of more than 60,000 cigarettes into the delivery of smaller components of 60,000 cigarettes in order to avoid the recordkeeping requirements of this rule.

One state tax commissioner stated that experience based on the results of a recent joint investigation conducted with ATF, indicates that the splitting of cigarette dispositions by distributors is currently being practiced to remove shipments of cigarettes from the jurisdiction of Pub. L. 95–575. A representative of the other State tax agency questioned the language of § 296.146 and asked for clarification of "what constitutes evidence of a distributor's intent to split cigarette dispositions to avoid the regulatory recordkeeping requirements?".

The regulations do not preclude a distributor from dividing a single agreement for the disposition of more than 60,000 cigarettes into smaller components of 60,000 cigarettes or less; however, the distributor must record the required information for each component of the agreement. If a distributor fails to keep the required records for each component of an agreement for the disposition of more than 60,000 cigarettes, the distributor would be in violation of the regulations. The word "agreement" is a term of art in the field of contract law, particularly under the uniform Commercial Code, and is susceptible to a uniform application by the courts. Even so, ATF cannot make a general or universal statement of what constitutes evidence of a distributor's intent to avoid the regulatory requirements of this rule. The evidence indicating any violation of the requirements cannot be defined outside the context of a particular case.

(5) *Forfeitures.* A commenter requested that specific provisions be implemented which would allow the affected State to recover lost revenue through the resale of contraband seized in accordance with these regulations.

While the affected State may be allowed through its concurrent jurisdiction to seize contraband involved in a violation of State tax laws, contraband seized by ATF for a violation of 18 U.S.C. Chapter 114 must be disposed of in accordance with 27 CFR Part 72—Disposition of Seized Personal Property. Section 2344(c), 18 U.S.C., does not require that the seizure of contraband subject to seizure and forfeiture under both State and Federal law be accomplished under the Federal statute. Nevertheless, regulatory language permitting the automatic transfer of property seized by ATF to the affected State is not authorized.

Changes in the Final Rule

The following changes are made in the final rule:

(1) Definitions of "state" and "regional regulatory administrator" are added to § 296.143.

(2) Sections 296.147(a)(1)(i) and 296.147(a)(2)(i) are changed to clarify the recordkeeping requirements where the recipient of the cigarettes may not be the purchaser.

(3) A provision permitting, a distributor, in certain circumstances, to retain the required records for a shorter retention period is added to § 296.150.

Drafting Information

The principal author of this document is Thomas L. Minton of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This Treasury decision is issued under the authority of 18 U.S.C. 2346.

Regulations

On the basis of the foregoing, 27 CFR Part 296 is amended as follows:

PART 296—MISCELLANEOUS REGULATIONS RELATING TO CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

1. The table of sections in 27 CFR Part 296 is amended to include the addition of a new Subpart F as follows:

* * * * *

Subpart F—Distribution of Cigarettes

General

Sec.

296.141 Scope of subpart.
296.142 Territorial extent.
296.143 Meaning of terms.

Records

296.146 General requirements.
296.147 Required information.
296.150 Retention of records.

Other Provisions Relating to the Distribution of Cigarettes

296.153 Authority of ATF officers to enter business premises.

Penalities and Forfeitures

296.154 Penalties.
296.155 Forfeitures.

* * * * *

2. Part 296, 27 CFR, is amended by the addition of Subpart F—Distribution of Cigarettes. Subpart F reads as follows:

Subpart F—Distribution of Cigarettes

Authority: 18 U.S.C. 2341–2346, unless otherwise noted.

General

§ 296.141 Scope of subpart.

The regulations in this subpart relate to the distribution of cigarettes in excess of 60,000 in a single transaction.

§ 296.142 Territorial extent.

The provisions of the regulations in this subpart apply in the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

§ 296.143 Meaning of terms.

When used in this subpart, terms are defined as follows in this section. Words in the plural shall include the singular, and vice versa. Words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not named which are in the same general class or are otherwise within the scope of the term defined.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this subpart.

Business premises. When used with respect to a distributor, the property on which the cigarettes are kept or stored. The business premises includes the property where the records of a distributor are kept.

Common or contract carrier. A carrier holding a certificate of convenience and necessity, a permit for contract carrier by motor vehicle, or other valid operating authority under the Interstate Commerce Act, or under equivalent operating authority from a regulatory agency of the United States or of any State.

Contraband cigarettes. Any quantity of cigarettes in excess of 60,000, if—

(a) The cigarettes bear no evidence of the payment of applicable State cigarette taxes in the State where the cigarettes are found;

(b) The State in which the cigarettes are found requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes; and

(c) The cigarettes are in the possession of any person other than an exempted person.

Disposition. The movement of cigarettes from a person's business premises, wherever situated, by shipment or other means of distribution.

Distribute. To sell, ship, issue, give, transfer, or otherwise dispose of.

Distributor. Any person who distributes more than 60,000 cigarettes in a single transaction.

Exempted person. Any person who is—

(a) Holding a permit issued pursuant to Chapter 52 of the Internal Revenue Code of 1954 as a manufacturer of tobacco products or as an export warehouse proprietor;

(b) Operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555);

(c) An agent of a tobacco products manufacturer, an export warehouse proprietor, or an operator of a customs bonded warehouse;

(d) A common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill which states the quantity, source, and destination of the cigarettes;

(e) Licensed or otherwise authorized by the State, in which he possesses cigarettes, to account for and pay cigarette taxes imposed by that State; and who has complied with the accounting and payment requirements relating to his license or authorization with respect to the cigarettes involved; or

(f) An agent of the United States, of an individual State, or of a political subdivision of a State and having possession of cigarettes in connection with the performance of official duties.

(g) Operating within a foreign-trade zone established under 19 U.S.C., section 81b, when the cigarettes involved have been entered into the zone under zone-restricted status or, in respect to foreign cigarettes, have been admitted into the zone but have not been entered in the United States.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Regional Regulatory Administrator. The regional official in charge of regulatory enforcement.

State. A State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.

Records

§ 296.146 General requirements.

Each distributor of cigarettes shall keep copies of invoices, bills of lading, or other suitable commercial records relating to each disposition of more than 60,000 cigarettes. Dividing a single agreement for the disposition of more than 60,000 cigarettes into the delivery of smaller components of 60,000 cigarettes or less does not exempt the distributor from the recordkeeping requirements of this subpart. The distributor shall include the information prescribed in § 296.147 in his commercial records of disposition.

§ 296.147 Required information.

(a) *Distributors who are exempted persons.* Each distributor who is an exempted person as defined in § 296.143 shall show the following information in his commercial records.

(1) For each disposition of more than 60,000 cigarettes to an exempted person; or for each disposition of more than 60,000 cigarettes to a person who is not an exempted person and which is delivered by the distributor to the recipient's place of business, the distributor shall show on dated records—

(i) The full name of the purchaser (or the recipient if there is no purchaser);

(ii) The street address (including city and state) to which the cigarettes are destined; and

(iii) The quantity of cigarettes disposed of.

(2) For each disposition of more than 60,000 cigarettes, other than the dispositions specified in paragraph (a)(1) of this section, the distributor shall show on dated records—

(i) The full name of the purchaser (if any);

(ii) The name, address (including city and state), and signature of the person receiving the cigarettes;

(iii) The street address (including city and state) to which the cigarettes are destined;

(iv) The quantity of cigarettes disposed of;

(v) The driver's license number of the individual receiving the cigarettes;

(vi) The license number of the vehicle in which the cigarettes are removed from the distributor's business premises;

(vii) A declaration by the individual receiving the cigarettes of the specific purpose of receipt (such as personal use, resale, delivery to another person, etc.); and

(viii) A declaration by the person receiving the cigarettes of the name and address of his principal when he is acting as an agent.

(b) *Distributors who are not exempted persons.* Each distributor who is not an exempted person as defined in § 296.143 shall show on dated commercial records the information specified in paragraphs (a)(2)(i)—(a)(2)(viii) of this section for each disposition of more than 60,000 cigarettes.

§ 296.150 Retention of records.

(a) *General.* Each distributor of cigarettes shall retain the records required by §§ 296.146 and 296.147 for

three years following the close of the year in which the records are made. The distributor shall keep the required records on his business premises.

(b) *Shorter retention periods.* The regional regulatory administrator may, pursuant to an application submitted by a distributor, approve a shorter retention period where—

(1) The distributor requesting the shorter retention period is an agent of a tobacco products manufacturer;

(2) The tobacco products manufacturer will keep the required record for each disposition of more than 60,000 cigarettes from the agent's premises for the full retention period specified in paragraph (a) of this section; and

(3) The approval of a shorter retention period will not unduly hinder the administration of enforcement of this subpart.

(c) *Application requirements.* Each distributor proposing to employ a shorter retention period shall submit a written application, in duplicate, to the regional regulatory administrator of the region in which the distributor is located. A distributor may not employ a shorter retention period until approval is received from the regional regulatory administrator. Each application should indicate the duration of the proposed retention period and should include the information required by paragraph (b) of this section.

Other Provisions Relating to the Distribution of Cigarettes

§ 296.153 Authority of ATF officers to enter business premises.

Any ATF officer may enter the business premises of any distributor of cigarettes to inspect the records required by §§ 296.146–296.147 or to inspect any cigarettes stored on the premises—

(a) Pursuant to duly issued search warrant or an administrative inspection warrant; or

(b) Upon the consent of the distributor to enter his premises.

Penalties and Forfeitures

§ 296.154 Penalties.

(a) Any person who knowingly ships, transports, receives, possesses, sells, distributes, or purchases contraband cigarettes shall be fined not more than $100,000 or imprisoned not more than five years, or both.

(b) Any person who knowingly violates any regulation contained in this subpart or makes any false statement or misrepresentation with respect to the information required to be recorded by this subpart shall be fined not more than $5,000 or imprisoned not more than three years, or both.

§ 296.155 Forfeitures.

(a) Any contraband cigarettes involved in any violation of the provisions of 18 U.S.C. Chapter 114 shall be subject to seizure and forfeiture. All provisions of the Internal Revenue Code of 1954 (Title 26 U.S.C.) relating to the seizure, forfeiture, and disposition of firearms, as defined in § 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures of contraband cigarettes under the provisions of 18 U.S.C. Chapter 114.

(b) Any vessel, vehicle or aircraft used to transport, carry, convey, or conceal or possess any contraband cigarettes with respect to which there has been committed any violation of any provision of 18 U.S.C. Chapter 114 or the regulations in this subpart shall be subject to seizure and forfeiture under the Customs laws, as provided by the Act of August 9, 1939 (49 U.S.C. 781–788).

(18 U.S.C. 2344; 53 Stat. 1291 (49 U.S.C. 782))

Signed: May 23, 1980.

Stephen E. Higgins,

Acting Director.

Approved: July 10, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-21733 Filed 7-18-80; 8:45 am]

BILLING CODE 4810-31-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations

AGENCY: Equal Employment Opportunity Commission.

ACTION: Interim rule with request for comments.

SUMMARY: The Equal Employment Opportunity Commission is publishing revisions to its procedural regulations §§ 1601.21 (b) and (d) and 1601.28(d). They are effective immediately. They are, however, interim pending receipt of comments by the public. The procedural regulations § 1601.21 (b) and (d) currently provide that the Commission may reconsider a previously issued determination, but when it does reconsider, it need only provide prompt notification of its *decision.* The Commission is amending its procedural regulations, among other things, to provide for notice of the Commission's intent to reconsider previously issued determinations of reasonable cause or of dismissals of charges. The revisions provide that the Commission or its designated officer may reconsider a dismissal of a charge under Title VII of the Civil Rights Act of 1964, as amended, at any time and that issuance of a notice of intent to reconsider will always vacate the dismissal and will revoke a previously issued notice of right to sue in certain instances. These revisions apply to charges of discrimination filed by private sector employees and public sector employees. The revisions further provide that the Commission or its designated officer may reconsider a determination finding reasonable cause to believe a charge is true at any time in cases involving private sector employees. However, the Commission or its designated officer will not reconsider a determination of reasonable cause previously issued against a government, governmental entity or political subdivision after a failure of conciliation as set forth in § 1601.25. After a failure of conciliation in cases involving a public respondent, the Commission takes no further action and refers the case to the Attorney General.

The Commission amends § 1601.28(d) to reflect the interpretation of § 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, adopted in *Shea* v. *City of St. Paul,* 601 F.2d 345 (8th Cir. 1979) and *DeMatteis* v. *Eastman Kodak Company,* 511 F.2d 306, modified 520 F.2d 409 (2d Cir., 1975), which hold that notice of the dismissal of a charge constitutes notice of final administrative action and of the right to sue. Henceforth in all cases where the respondent is a government, governmental agency, or a political subdivision, the notice of dismissal issued by the Commission will include the notice of right to sue. Because the present state of the law threatens the rights of thousands of charging parties to a determination of their rights on the merits, the regulations are being adopted on an interim basis pending receipt of comments.

DATES: Effective July 21, 1980. Comments on the interim regulations must be received on or before August 20, 1980. The Commission proposes to consider the submissions for a period of at least ten days thereafter before adopting any 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: Anthony J. De Marco, Legal Counsel Division, EEOC, 2401 E Street, N.W., Washington, D.C. 20506, 202–634–6595.

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission's procedural regulations are published in 29 C.F.R. Part 1601. Sections 1601.21(b) and (d) set forth the procedures by which the Commission or its designated officer may reconsider a previously issued determination. The regulations currently provide that when the Commission, or any of its delegates, does reconsider a decision, it need only provide prompt notification of its *decision* after reconsideration. The Commission is amending its procedural regulations to provide for notice of the Commission's intent to reconsider previously issued determinations of reasonable cause or of dismissals of charges.

Sections 1601.21(b) and (d) continue to provide that the Commission or its designated officer may reconsider a previously issued determination at any time. There is now, however, one limitation on their authority, to wit: that neither the Commission nor any of its designated officers will reconsider a determination of reasonable cause previously issued against a government, governmental entity or political subdivision after a failure of conciliation as set forth in § 1601.25.

Sections 1601.21(b)(1) and (d)(1) provide that whenever a judgment is made to reconsider a dismissal issued pursuant to § 1601.19 or a determination finding reasonable cause to believe a charge is true pursuant to § 1601.21(a), a notice of intent to reconsider a dismissal or reasonable cause determination will be promptly issued. If the notice is issued within 90 days from the receipt of the notice of right to sue and the charging party has not filed suit nor requested the notice of right to sue pursuant to § 1601.28(a)(1) or (2), such notice will vacate the dismissal or letter of determination *and revoke any previously issued notice of right to sue.* If the 90 day period has expired, the charging party has filed suit, or the charging party had originally requested the notice of right to sue pursuant to § 1601.28(a)(1) or (2), the notice of intent to reconsider will vacate the dismissal or determination, but will not revoke the notice of right to sue.

After reconsideration the Commission will issue a determination anew. In those circumstances where the notice of right-to-sue has been revoked, the Commission will, in accordance with § 1601.28, issue a notice of right to sue anew which will provide the charging party with 90 days within which to bring suit. Thus, the Commission will not issue a notice of right to sue anew in situations where the original 90 day period in which to bring suit has expired, or where the charging party has filed suit or had on his or her own motion requested the original notice of right to sue.

Sections 1601.21(b)(2) and (d)(2) provide that the notice of intent to reconsider is effective on the date of issuance by the Commission, rather than on the date that the notice is received by the charging party. Thus, the notice of right to sue is automatically revoked upon the Commission's issuance of its intent to reconsider and the 90 day period in which the charging party must bring suit stops at that time. By making the date of issuance of the notice the effective date, administrative errors can be reduced without the complication of possible mail delivery problems.

The revisions also make clear, however, that the Commission will not reconsider a previously issued determination of reasonable cause against a government, governmental entity or political subdivision after there has been a failure of conciliation as set forth in § 1601.25. After a failure of conciliation in cases involving a public respondent, the Commission takes no further action and refers the case to the Attorney General. *See* § 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e–5(f)(1). Thus, while the Commission may reconsider a cause determination involving a private employer at any time, the Commission will not reconsider a cause determination involving a public employer after the failure of conciliation.

The Commission needs to retain flexibility in cases involving private respondents because the Commission ordinarily may not sue or intervene in suits or issues on which it has not found cause and attempted conciliation. This is important in cases where a Commission determination is mixed, i.e., reasonable cause to believe discrimination has occurred with regard to one issue and no reasonable cause on another issue. If the Commission does not retain flexibility in these cases, then after the failure of conciliation on the cause issue, the Commission would not be able to reconsider the no cause aspect of the determination or ultimately be able to sue on the no cause aspect. The Commission's experience is that in reviewing for possible litigation, information may be discovered which may give rise to the Commission believing that an administrative error had been made in making a finding of no cause. The Commission may wish to reconsider at that point and after complying with Title VII procedures, bring suit. Thus it is essential that the Commission be able to reconsider determinations even after the failure of conciliation.

In public sector cases, a mixed determination will be treated as a cause determination (see revisions to § 1601. 28) and, upon the failure of conciliation, will be referred to the Attorney General. Thus, unlike the situation involving the private respondents, the Commission will not reconsider the no cause portion of the determination after the failure of conciliation on the cause portion of the determination. As noted above, after the failure of conciliation, the Commission refers the charge to the Department of Justice and thus it would be inappropriate for the Commission to reconsider a determination after the transfer (a transfer which is required by law) to another federal agency.

The Commission does not expect that this provision will create any imbalance in the rights afforded to individuals whose charges are against public respondents. The Attorney General may initiate public sector litigation under Section 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e–6, without following the Commission's processes. *See* Executive Order No. 12068, 43 Fed. Reg. 28971 (June 30, 1978). In these cases, the Attorney General may litigate without the Commission reconsidering those issues on which the Commission has found no cause.

While the Commission will not reconsider a determination after it refers the charge to the Attorney General, the staff of the Commission will be instructed to thoroughly review the evidence with respect to all allegations of such charge prior to completion of the Commission's process and referral of the charge to the Attorney General.

The revisions to §§ 1601.21 (b) and (d) reflect the current practice of the Commission and the principles embodied herein have been approved by the Fifth Circuit in *Gonzales* v. *Firestone Tire and Rubber Co.*, 610 F. 2d 241 (5th Cir. 1980). In *Gonzales* the Commission issued a no-cause determination letter and the right to sue notice and then notified both parties of its intent to reconsider its earlier determination. The Commission found cause and upon

failure of conciliation issued a second right to sue notice to Gonzales. The Court held that "The EEOC may issue a second ninety-day right to sue notice upon completion of a discretionary reconsideration of a prior determination provided it has given notice to both parties of its decision to reconsider within the ninety-day period provided by the initial notice of right to sue." The revisions provide for notice to all parties and make clear that the Commission will not issue a notice of right to sue anew in situations where the original 90 day period in which to bring suit has expired prior to the notice of intent to reconsider, or where the charging party has filed suit or has on his or her own motion requested the original notice of right to sue.

The Commission amends Section 1601.28(d) to provide that the Commission will issue the notice of right to sue as a part of its notice of dismissal when there has been a dismissal issued pursuant to § 1601.19, including cases where the respondent is a government, governmental agency, or a political subdivision. In the past, the Attorney General has issued the notice of right to sue in such cases. The change in the regulations for the processing of dismissals of Title VII charges against public employers is prompted by a recent Eighth Circuit Decision in *Shea* v. *City of St. Paul*, 601 F. 2d 345 (8th Cir., 1979). In the *Shea* case, the court held that Title VII's 90 day statute of limitations for filing suit begins to run from the date of the aggrieved person's receipt of a notice of dismissal from the Commission, and not from the subsequent receipt of a notice of right to sue from the U.S. Department of Justice notwithstanding the fact that the respondent was a government entity. This holding is consistent with the earlier decision in *DeMatteis* v. *Eastman Kodak Company*, 511 F. 2d 306, modified 520 F. 2d 409 (2d Cir., 1975), which held that receipt by an aggrieved person of a dismissal of a charge against a private employer constituted that person's receipt of a notice of right to sue, and that the 90 day period within which suit had to be filed began then rather than upon the person's subsequent receipt of a formal notice of right to sue. It is noted that under § 1601.28(b), when a charge is dismissed against a respondent in the private sector, the Commission issues the notice of dismissal and notice of right to sue simultaneously.

In order to protect the rights of charging parties to a decision on the merits, and the right of the respondent to prompt access to the courts, the Commission and the Department of Justice accept the interpretation of § 706(f)(1) adopted in *Shea*. A letter dated March 17, 1980 from Assistant Attorney General Drew S. Days III, on behalf of the Attorney General, recommends that course of action. That letter is attached as an Appendix hereto.

In the interim regulation, the same procedure will be followed for dismissals in the public sector as presently followed in the private sector, namely, notice of right to sue will be included in the notice of dismissal, so that a charging party is expressly advised that he or she must bring suit within 90 days of receipt of the dismissal. The Commission has already implemented this procedure in the Eighth Circuit which includes the following states: Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota. The Commission has also been following this procedure in its New York District Office because of the decision in *Ramos* v. *Port Authority*, 12 EPD ¶11,035 (S.D. N.Y. 1976). The issuance of such notices by the Commission rather than the Attorney General will eliminate unnecessary paperwork, duplication of effort between the two agencies, and delay in aggrieved persons' and respondents' ability to have matters promptly resolved by the courts, and will clarify when the 90 day period for filing of a private civil action begins. The change will also bring consistency to Commission practice with respect to dismissals of charges against private and public respondents.

In accord with the explicit language of § 706(f)(1), the Attorney General will still issue the notice of right to sue in all cases where the respondent is a government, governmental agency, or a political subdivision when there has been a finding of reasonable cause by the Commission, there has been a failure of conciliation, and the Department of Justice has decided not to file a civil action. Similarly, the Attorney General will also issue the notice of right to sue in cases where a charging party has requested a notice of right to sue pursuant to § 1601.28(a)(1) or (2). In cases where a charge of discrimination results in a finding of cause in part and no cause in part, the case will be treated as a "cause" determination and will be referred to the Attorney General. Thus, the change in the Commission's procedures for processing Title VII charges against public employers applies only to *dismissals*.

These amendments are not significant regulations within the meaning of Executive Order 12044. The interim revisions to 29 CFR 1601.21(b) and (d) and 1601.28(d) follow:

Signed at Washington, D.C., this 15th day of July 1980.

For the Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

1. Sections 1601.21(b) and (d) are revised to read as follows:

§ 1601.21 Reasonable cause determination.

Procedure and authority.

(a) * * *

(b) The Commission shall provide prompt notification of its determination under paragraph (a) of this section to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commission in the third party certificate, if any, and the respondent. The Commission may, however, on its own initiative reconsider its decision or the determination of any of its designated officers who have authority to issue Letters of Determination, *EXCEPT that the Commission will not reconsider determinations of reasonable cause previously issued against a government, governmental entity or political subdivision after a failure of conciliation as set forth in § 1601.25.*

(1) In cases where the Commission decides to reconsider a dismissal or a determination finding reasonable cause to believe a charge is true, a notice of intent to reconsider will promptly issue. If such notice of intent to reconsider is issued within 90 days from receipt of a notice of right to sue and the charging party has not filed suit and did not receive a notice of right to sue pursuant to § 1601.28(a)(1) or (2), the notice of intent to reconsider will vacate the dismissal or letter of determination and revoke the notice of right to sue. If the 90 day period has expired, the charging party has filed suit, or the charging party had requested a notice of right to sue pursuant to § 1601.28(a)(1) or (2), the notice of intent to reconsider will vacate the dismissal or letter of determination, but will not revoke the notice of right to sue. After reconsideration the Commission will issue a determination anew. In those circumstances where the notice of right to sue has been revoked, the Commission will, in accordance with § 1601.28, issue a notice of right to sue anew which will provide the charging party with 90 days within which to bring suit.

(2) The Commission shall provide prompt notification of its intent to reconsider, which is effective upon issuance, and its final decision after reconsideration to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent.

* * * * *

(d) The Commission hereby delegates to District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs the authority, in those cases in which previously issued Commission Decisions serve as precedent for the determination and in those cases in which the Commission's Guidelines provide a statement of policy which serves as authority for the determination, upon completion of an investigation, to dismiss a charge, make a determination, issue a Letter of Determination and serve a copy thereof upon the parties. Such determination is final when the Letter of Determination is issued. However, the Director of the Office of Field Services, the Director of the Office of Systemic Programs and each District Director, for determinations issued by his or her office, may on his or her own initiative reconsider determinations, *EXCEPT that such directors may not reconsider determinations of reasonable cause previously issued against a government, governmental entity or political subdivision after a failure of conciliation as set forth in § 1601.25.*

(1) In cases where the issuing Director decides to reconsider a dismissal or a determination finding reasonable cause to believe a charge is true, a notice of intent to reconsider will promptly issue. If such notice of intent to reconsider is issued within 90 days from receipt of a notice of right to sue and the charging party has not filed suit and did not request a notice of right to sue pursuant to § 1601.28(a)(1) or (2), the notice of intent to reconsider will vacate the dismissal or letter of determination and revoke the notice of right to sue. If the 90 day period has expired, the charging party has filed suit, or the charging party had received a notice of right to sue pursuant to § 1601.28(b)(1) or (2), the notice of intent to reconsider will vacate the dismissal or letter of determination, but will not revoke the notice of right to sue. After reconsideration the issuing Director will issue a determination anew. In those circumstances where the notice of right to sue has been revoked, the issuing Director will, in accordance with § 1601.28, issue a notice of right to sue anew which will provide the charging party with 90 days within which to bring suit.

(2) When the issuing Director does reconsider, he or she shall provide prompt notification of his or her intent to reconsider, which is effective upon issuance, and final decision after reconsideration to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the charge or identified by the Commissioner in the third party certificate, if any, and the respondent.

2. Section 1601.28(d) is revised to read as follows:

§ 1601.28 Notice of right to sue: Procedure and authority.

* * * * *

(d) Notices of right-of-sue for charges against Governmental respondents. In all cases where the respondent is a government, governmental agency, or a political subdivision, the Commission will issue the notice of right to sue when there has been a dismissal of a charge. The notice of right to sue will be issued in accordance with § 1601.28(e). In all other cases where the respondent is a government, governmental agency, or political subdivision, the Attorney General will issue the notice of right to sue, including the following cases: (1) when there has been a finding of reasonable cause by the Commission, there has been a failure of conciliation, and the Attorney General has decided not to file a civil action; and (2) where a charging party has requested a notice of right to sue pursuant to § 1601.28(a)(1) or (2). In cases where a charge of discrimination results in a finding of cause in part and no cause in part, the case will be treated as a "cause" determination and will be referred to the Attorney General.

(Sec. 713(a), Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–12(a))

U.S. Department of Justice,
Civil Rights Division,
Office of the Assistant Attorney General.
Washington, D.C. March 17, 1980.

Honorable Eleanor Holmes Norton,
Chair, Equal Employment Opportunity Commission, Washington, D.C.

Dear Ms. Norton: Please refer to the letter dated January 31, 1980, from Francesta Farmer to David L. Rose, concerning proposed changes in the regulations of the Equal Employment Opportunity Commission, which will provide, inter alia, for the issuance by the Commission of notices of right to sue when charges against state and local governmental units are dismissed. We agree with the thrust of that proposal.

Two appellant courts have held that receipt by an aggrevied person of notice that the administrative remedies with respect to his or her charge have been exhausted constitutes the statutory notice of right to sue under Section 706 (f)(1) which starts the ninety-day period within which suit must be filed. In *DeMatteis* v. *Eastman Kodak Company*, 511 F.2d 306, modified 520 F.2d 409 (2d Cir., 1975), the Second Circuit held that the receipt by a person of a determination dismissing a charge starts the ninety-day statutory period within which suit had to be brought, rather than the receipt of a subseqent formal notice of that person's right to institute suit. Similarly, in *Shea* v. *City of St. Paul*, 601 F.2d 345 (8th Cir., 1979), the Eighth Circuit held to the same effect notwithstanding the fact that the respondent was a governmental entity. The result of the decision in *Shea* was to deny a charging party who had relied upon the procedures and regulations of our two agencies a day in court on the merits of the charge. In *Whitfield* v. *Certain-Teed Products*, 533 F.2d 353 (8th Cir., 1976), the same court held that the receipt by a charging party of a letter advising him that the Commission would not file suit on his behalf and that he could request a right to sue letter itself constituted the necessary statutory notice and upon his receipt of that letter, the ninety-day period began.

In accord with those decisions, when a charge is dismissed against a respondent in the private sector, the Commission issues the dismissal and notice of right to sue simultaneously. As a result of the *Shea* decision the Commission, in order to avoid a further loss of litigation rights to charging parties, has with our concurrence begun to issue notices of right to sue along with dismissals of charges involving governmental units in the seven-state area included in the Eighth Circuit.

This Department is prepared to accept the interpretation of Section 706(f)(1) set forth in *Shea*. We recommend that the Commission also accept that interpretation by publishing a new regulation setting forth our acceptance of that interpretation, and providing for the issuance of notices of right to sue along with dismissals in cases involving state or local governmental units. We believe that adoption of this procedure nationwide will be consistent with the intent of Congress that once the administrative process is complete, the filing of suit should be permitted. The new procedure will bring the procedure for state and local governments into accord with that for private sector respondents. Under the present system, in the case of dismissals of charges involving governmental units, the Commission must issue the determination and forward a copy to the Attorney General for issuance of a formal notice of right to sue, and as a result, there are delays which postpone their day in court for both aggrieved persons and respondents. The present system results in duplication of efforts by our two agencies and is inefficient, requiring, as it does, additional paperwork by our two agencies after the administrative process is complete. The new procedure will eliminate this duplication of effort and will at the same time protect the right of charging parties to their day in court and the right of the respondent to prompt access to the courts.

Because the rights of thousands of charging parties are threatened by the decision in *Shea*, we urge you to adopt the new procedure as soon as possible. You may wish to consider adoption of the new procedure on an interim basis, pending the receipt of comments on it. Members of this Division will be happy to work with your staff on implementing this new procedure.

Sincerely,

Drew S. Days III,

Assitant Attorney General, Civil Rights Division.

[FR Doc. 80-21841 Filed 7-18-80; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 100

[DoD Directive 1215.13]

Unsatisfactory Performance of Ready Reserve Obligation; Amendment No. 1

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule amendment.

SUMMARY: This amendment reflects types of discharge certificates to be issued in characterizing quality of performance regarding members of the Ready Reserve whose performance of duty is unsatisfactory.

EFFECTIVE DATE: March 31, 1980.

FOR FURTHER INFORMATION CONTACT: CDR T. Seaman, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (Reserve Affairs), Washington, D.C. 20301, Telephone: 202-697-4334.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-27404 appearing in the Federal Register (44 FR 51568) on September 4, 1979, the Office of the Secretary of Defense published a revision of Part 100. The following is an amendment to this rule.

PART 100—UNSATISFACTORY PERFORMANCE OF READY RESERVE OBLIGATION

Accordingly, 32 CFR, Chapter I, Part 100, is amended as follows: Section 100.6 is amended as follows:

By revising paragraph (g).

§ 100.6 Definitions.

* * * * *

(g) *Tentative Characterization of Service.* * * * If the quality is described as under honorable conditions a General Discharge certificate shall be provided upon discharge. If the quality is described as under other than honorable conditions a Discharge Under Other Than Honorable Conditions certificate shall be provided upon discharge.

* * * * *

(Title 10, U.S.C. 510, 511, 593, 597, or 651, and Title 32, U.S.C. 302)

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

July 11, 1980.

[FR Doc. 80-21750 Filed 7-18-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 80-07]

Drawbridge Operation Regulations; Taunton River, Maine

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Maine Department of Transportation the Coast Guard is amending existing regulations to permit the closure to navigation of the swingspan in the U.S. Route #1 Bridge across the Taunton River, mile 4.3, between Hancock and Sullivan, Maine. The amendment is made because the last recorded opening of the span was in 1946.

EFFECTIVE DATE: This amendment is effective on August 24, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: On March 6, 1980, The Coast Guard published a proposed rule (45 FR 14600) concerning this amendment. The Commander, First Coast Guard District also published this proposal as a Public Notice dated March 18, 1980. Interested persons were given until April 4, 1980 and April 21, 1980, respectively to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this Proposal are: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, and Lieutenant William B. O'Leary, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Comments

One comment indicating no objection was received.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.3 to read as follows:

§ 117.3 Taunton River, Maine; Maine Department of Transportation highway bridge between Hancock and Sullivan.

(a) The draw need not open for the passage of vessels.

(b) The draw shall be returned to operable condition within six months after notification from the Commandant to take such action.

(Sec. 5, 28 Stat. 362, as amended; Sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499; 49 U.S.C 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: July 17, 1980.

R. H. Wood,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 80-21814 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 80-08]

Drawbridge Operation Regulations; Presumpscot River, Between Portland and Falmouth, Maine, Mile 0.0

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Maine Department of Transportation the Coast Guard is amending existing regulations to permit the closure of the drawspan in the U.S. Route #1 Bridge over the Presumpscot River, between Portland and Falmouth, Maine. The amendment is made because the drawspan has not been opened since 1976, and no additional navigation is anticipated in the foreseeable future.

EFFECTIVE DATE: This amendment is effective on August 24, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: On March 6, 1980, The Coast Guard published a proposed rule (45 FR 14601) concerning this amendment. The Commander, First Coast Guard District also published this proposal as a public Notice dated 18 March 1980. Interested persons were given until 4 April 1980 and 21 April 1980, respectively, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this Proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant William B. O'Leary, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Comments

Two comments, one supporting the proposal, were received. The objection was submitted by the owner of property located above the bridge. In the near future, a house will be built on the land. A closed bridge would deny access by sailboat.

The Presumpscot River immediately above the bridge is wide and shallow: At low tide the channel is separated from the shore by varying widths of tidal flats. Interstate route 295 crosses the Presumpscot River, about 1.7 miles above the bridge, at a point where the river suddenly narrows. Immediately above this bridge is a fixed railroad bridge. The dimensions of the navigation opening through this bridge are a width of 60 feet and a vertical clearance of nine feet above mean high water. The U.S. Route #1 bridge, when closed, provides a vertical clearance of 12 feet at mean high tide and 21 feet at mean low water, which should provide for the reasonable needs of navigation.

The westerly shore between the two bridges is isolated by the interstate roadway. Much of the land to the north and along the east side is tidal wetland. A portion of the land along the east side and the small amount of land at the south end are residential areas.

The shallowness of the Presumpscot River and the lack of available land preclude any significant development of this area.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.15 to read as follows:

§ 117.15 Presumpscot River, Portland, Maine: highway bridge at Martin Point.

(a) The drawspan of this bridge need not be opened for the passage of vessels.

(b) The draw shall be returned to operable condition within six months after notification from the Commandant to take such action.

(Sec. 5, 28 Stat. 362, as amended; Sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: July 17, 1980.

R. H. Wood,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

FR Doc. 80-21813 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 79-114]

Drawbridge Operation Regulations; Yazoo River, Miss.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the regulations governing the operation of the drawbridges across the Yazoo River from its mouth to Greenwood, Mississippi, to require at least two hours notice for the opening of the Illinois Central Gulf Railroad bridge at Redwood and the Satartia Highway bridge at Satartia and at least four hours notice for the drawbridges at Yazoo City, Belzoni, Silent Shade, Roebuck, Fort Loring, and Greenwood at all times. The proposal is being made in an effort to promote uniformity and facilitate commercial navigation. This action should relieve the bridge owners of having a person constantly available to open the draw while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on August 24, 1980.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-NBR/TP14), Room 1414, Transpoint Building, 2100 Second Street, S.W., Washington, D.C. 20593 (202-426-0942).

SUPPLEMENTARY INFORMATION: On May 22, 1980, the Coast Guard published a proposed rule (44 FR 34305) concerning this amendment. The Commander, Second Coast Guard District, also published these proposals as a Public Notice dated May 29, 1980. Interested parties were given until June 23, 1980 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this amendment are: Frank L. Teuton, Jr. Project Manager, Office of Navigation, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of Comments

No comments were received on this proposal.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

1. Deleting 33 CFR 117.560(f)(18).

2. Revising 33 CFR 117.560(f)(17) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(17) Yazoo River, Miss. (i) The draws of the Illinois Central Gulf Railroad bridge at Redwood and the Satartia Highway bridge at Satartia shall open on signal if at least two hours notice is given. When a vessel has given notice and fails to arrive within the two-hour period specified, the draw tender shall remain on duty for two additional hours and open the draw if the requesting vessel appears. After this time, an additional two-hour notice is required.

(ii) The draws of the drawbridges upstream from the Satartia Highway bridge shall open on signal if at least four hours notice is given. When a vessel has given notice and fails to arrive within the four-hour period specified, the draw tender shall remain on duty for two additional hours and open the draw if the requesting vessel appears. After this time, an additional four-hour notice is required.

* * * * *

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

Dated: July 14, 1980.

P. J. Rots,

Acting Chief, Office of Navigation.

[FR Doc. 80-21815 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Poisons and Controlled Substances, Deletion of Requirement To Use Registered Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule deletes the requirement in postal regulations that parcels containing controlled substances be sent by registered mail. A number of mailers had requested deletion of this requirement because of the higher cost of registered mail. The Postal Service believes it appropriate to agree to the request. Accordingly, regular mail may be used for parcels containing controlled substances.

EFFECTIVE DATE: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: George C. Davis, (202) 245-4385.

SUPPLEMENTARY INFORMATION: On March 27, 1980 the Postal Service published in the **Federal Register** (45 FR 20118) a proposal to amend the regulations of the Postal Service concerning the mailing of poisons, poisonous drugs and medicines, and controlled substances. This proposal would have, among other things, eliminated the requirement to send controlled substances by registered mail. There were two extensions of the comment period on the registered mail proposal (see 45 FR 26983 and 38419), and the periods expired without any comments from the public on this issue.

Accordingly, the Postal Service hereby adopts the following revisions of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**. See 39 CFR 111.1.

Part 124—Nonmailable Matter—Articles and Substances; Special Mailing Rules

In 124.5 delete .543 and .544.

124.5 Controlled Substances, Narcotics (18 U.S.C. 1716)

* * * * *

.54 Mailing Requirements

* * * * *

.543 [Deleted]

.544 [Deleted]

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2); 18 U.S.C. 1716)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 80-21809 Filed 7-18-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[FRL 1545-2]

Consolidated Permit Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of portion of final rule.

SUMMARY: This action suspends a portion of the definition of the term, "waters of the United States" in the Consolidated Permit Regulations pending further rulemaking.

EFFECTIVE DATE: July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Peter Holmes, Office of General Counsel (A-131), Washington, D.C. 20460 (202) 755-0753.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA issued final consolidated permit regulations under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Clean Water Act, and the Clean Air Act. Included in those regulations was a definition of the term "waters of the United States." 40 CFR § 122.3. This term governs the applicability of the "National Pollutant Discharge Elimination System" (NPDES) permit system under the Clean Water Act.

The definition amended the previous definition, formerly appearing at 40 CFR § 122.3(t) (1979) of the term "navigable waters." This prior definition had specified that:

* * * waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

The May 19 regulations provided:

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR § 423.11 (m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as a disposal area in wetlands) nor resulted from the impoundment of waters of the United States. [40 CFR § 122.3, definition of "waters of the United States," FR 33424, May 19, 1980]

The Agency's purpose in the new last sentence was to ensure that dischargers did not escape treatment requirements by impounding waters of the United States and claiming the impoundment was a waste treatment system, or by discharging wastes into wetlands.

Petitions for review were filed in several courts of appeals by industries and an environmental group seeking review of the May 19 consolidated regulations. Certain industry petitioners wrote to EPA expressing objections to the language of the definition of "waters of the United States." They objected that the language of the regulation would require them to obtain permits for discharges into existing waste treatment systems, such as power plant ash ponds, which had been in existence for many years. In many cases, they argued, EPA has issued permits for discharges from, not into, these systems. They requested EPA to revoke or suspend the last sentence of the definition.

EPA agrees that the regulation should be carefully re-examined and that it may be overly broad. Accordingly, the Agency is today suspending its effectiveness. EPA intends promptly to develop a revised definition and to publish it as a proposed rule for public comment. At the conclusion of that rulemaking, EPA will amend the rule, or terminate the suspension.

Authority: This suspension is issued under authority of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*

Dated: July 16, 1980.

Douglas M. Costle,

Administrator.

§ 122.3 [Amended]

1. In 40 CFR § 122.3, in the definition of "Waters of the United States," the last sentence, beginning "This exclusion applies * * *," is suspended until further notice.

[FR Doc. 80-21678 Filed 7-17-80; 11:32 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 460

Professional Standards Review; Redesignation of PSRO Areas in California

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

ACTION: Final regulation.

SUMMARY: This regulation redesignates Professional Standards Review Organization (PSRO) areas in California in order to combine PSRO Areas XIX and XXIII. This redesignation will facilitate initiation of PSRO activity in the currently uncovered area of Los Angeles, California, formerly designated as Area XIX. In addition, the redesignation results in a higher degree of congruence with the Health Service Area (HSA) designations and in more effective coordination with Medicare intermediaries and carriers and Medicaid fiscal agents.

DATES: Effective July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Marjorie Geller, (301) 594-5033.

SUPPLEMENTARY INFORMATION: On December 17, 1979, we published a notice of proposed rulemaking in the **Federal Register** (44 FR 73128). The purpose of the proposal was to redesignate California PSRO areas so that the cities and postal zones of Los Angeles County previously designated as PSRO Area XIX were transferred to PSRO Area XXIII which consists of a group of cities in Los Angeles County.

Background

Guidelines for the redesignation of PSRO areas [42 CFR 460.2] provide that we may revise area designations when we determine it is necessary and that we may consider the coordination with existing Health Service Areas and the coordination with Medicare intermediaries and carriers and Medicaid fiscal agents in our redesignation decisions. The local Health Service Area covers all of Los Angeles County. Therefore, any consolidation of PSRO areas within Los Angeles County diminishes problems of coordination, data sharing, and other health planning efforts for the Los Angeles County Health Service Area. The Medicare intermediaries and carriers and Medicaid fiscal agents covering the Los Angeles County area currently must relate to eight different PSRO areas. Furthermore, medical practice patterns and service areas often cross PSRO area boundaries. A consolidation of areas will result in more effective coordination for these organizations.

Area XIX never had a conditional PSRO, and the contract with the planning organization which had formed in the area expired on March 30, 1979. Area redesignation will facilitate PSRO review implementation by allowing the Area XXIII PSRO to assume review responsibility in those hospitals formerly included in Area XIX.

Scope of the Rules

This regulation redesignates PSRO areas in California by adding to California Area XXIIII those cities and postal zones formerly included in California Area XIX. This change facilitates the full implementation of PSRO review in Los Angeles County and promotes more efficient coordination among PSROs, the Los Angeles County Medicare intermediaries and carriers and Medicaid fiscal agents, and the Los Angeles County medical practice patterns and services areas.

Clarification of Permanent Boundaries of Area XXIII

Areas XVIII through XXV are designated by city, community, and postal zone boundaries which were in effect in 1974, and these boundaries remain fixed regardless of subsequent changes in postal zones or communities. A detailed description of the boundaries for the proposed California Area XXIII is included below. In order to avoid confusion from renumbering PSRO areas in California, there will be no area designated as PSRO Area XIX.

The precise boundaries proposed for Area XXIII, in accordance with the 1974 city, community, and postal zone boundaries, are as follows:

Beginning at the Pacific Ocean at its intersection with the southern side of the Marina Del Rey Channel, thence running northeasterly along the City of Los Angeles side of the City of Los Angeles/Marina Del Rey Channel to its intersection with the unincorporated Los Angeles County border; then following south along the City of Los Angeles side of the City of Los Angeles and unincorporated Los Angeles County border to its intersection with Centinela Avenue; then southeasterly along the southern side of Centinela Avenue to its intersection with La Cienega Blvd.; then north along the eastern side of La Cienega Blvd. to its intersection with the northwest most point of the City of Los Angeles/City of Inglewood border; then east and southeasterly along the City of Inglewood side of the City of Inglewood/City of Los Angeles border to its intersection with the unincorporated Los Angeles County border; then south along the City of Inglewood side of the City of Inglewood/unincorporated Los Angeles County border to its intersection with the City of Hawthorne border; then running east and south along the City of Hawthorne side of the side of the City of Hawthorne/unincorporated Los Angeles County border to its intersection with El Segundo Blvd.; then easterly along the southern side of El Segundo Blvd. to its intersection with Vermont Avenue; then south along the western side of Vermont Avenue to its intersection with Rosecrans Avenue; then easterly along the southern side of Rosecrans Avenue to its intersection with Central Avenue; then north along the eastern side of Central Avenue to its intersection with El Segundo Blvd.; then east along the southern side of El Segundo Blvd. to its intersection with Mona Blvd.; then north on the eastern side of Mona Blvd. to its intersection with Imperial Highway; then east on the southern side of Imperial Highway to its intersection with Alameda Street; then north on the eastern side of Alameda Street to its intersection with Slauson Avenue; then east along the City of Huntington Park side of the City of Huntington Park/City of Vernon border to its intersection with the unincorporated Los Angeles County border; then east and north along the City of Huntington Park side of the City of Huntington Park/unincorporated Los Angeles County border to its intersection with the City of Vernon border; then following the City of Huntington Park side of the City of Huntington Park/City of Vernon border to its intersection with the City of Maywood border; then north along the City of Maywood side of the City of Maywood/City of Vernon border to its intersection with Slauson Avenue; then easterly along the southern side of Slauson Avenue to its intersection with Long Beach Freeway (State Highway 7); then south along the western side of Long Beach Freeway to its intersection with the City of Bell Gardens/City of Commerce border; then easterly along the City of Bell Gardens side of the City of Bell Gardens/City of Commerce border to its intersection with the City of Downey border; then following the City of Downey/City of Commerce border to its intersection with the City of Pico Rivera border; then following the City of Downey side of the City of Downey/City of Pico Rivera border to its intersection with the San Gabriel River; then south along the western side of the San Gabriel River to its intersection with the City of Norwalk/City of Bellflower/City of Cerritos border; then east along the City of Cerritos side of the City of Cerritos/City of Norwalk border to its intersection with the unincorporated Los Angeles County/City of Norwalk border then following the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Norwalk border to its intersection with the City of Cerritos border; then following the City of Cerritos side of the City of Cerritos/City of Norwalk border to its intersection with the City of Artesia border; then following the City of Artesia side of the City of Artesia/City of Norwalk border to its intersection with the City of Cerritos border; then following the City of Cerritos side of the City of Cerritos/City of Norwalk border to its intersection with the City of Sante Fe Springs border; then following the City of Cerritos side of the City of Cerritos/City of Sante Fe Springs border to its intersection with the City of La Mirada border; then following the City of Cerritos side of the City of Cerritos/City of La Mirada border to its intersection with the City of Buena Park border; then following the City of Cerritos side of the City of Cerritos/City of Buena Park border to its intersection with the City of La Palma border; then generally southwesterly along the City of Cerritos side of the City of Cerritos/City of La Palma border to its intersection with the unincorporated Orange County border; then following the City of Cerritos side of the City of Cerritos/unincorporated Orange County border to its intersection with the City of La Palma border; then following generally south along the Los

Angeles County side of the Los Angeles County/Orange County border to its intersection with the Pacific Ocean, the point of beginning. The Island of Catalina is also within the area.

Analysis of Public Comments

We received three comments in response to the proposed rule, one each from a hospital, a hospital council, and a medical association. Neither the hospital nor the hospital council opposed the area redesignation but both expressed concern that physicians in the former Area XIX be assured an ample opportunity for participation in policy making for the expanded PSRO Area XXIII. In addition, the medical association which sponsored the PSRO planning contract in Area XIX opposed the proposed rule based on similar concerns that there might be a lack of local control by physicians in the former Area XIX over the peer review process.

Although these are legitimate concerns, we believe that local physician control can be maintained throughout the enlarged Area XXIII since all physicians in the former Area XIX are now eligible for full membership in the Area XXIII PSRO. The California Regional Office will monitor the Area XXIII PSRO to ensure that it actively recruits physician membership and promotes board representation for former Area XIX physicians.

PART 460—PSRO AREA DESIGNATIONS

42 CFR 460.7 is amended by revising the introductory paragraph and the entries for Area XIX and Area XXIII in the table to read as follows:

§ 460.7 California

Twenty-seven Professional Standards Review Organization areas are designated in California. Areas XVIII through XXV are designated by city, community, and postal zone boundaries as in effect in 1974. All other areas are designated by counties. The boundaries for PSRO Areas XVIII through XXV will remain fixed, unless specifically revised through rulemaking, even though the 1974 boundaries for postal zones or other community areas may change. Therefore, detailed specifications of these PSRO Areas have also been prepared and are available upon request from HCFA.

* * * * *

Area XIX (Consolidated with Area XXIII).

* * * * *

AREA XXIII

Gardena	El Segundo
Hermosa Beach	Hawthorne
Lomita	Inglewood
Manhattan Beach	Lawndale
Palos Verdes	Lennox
Redondo Beach	Avalon
Compton	Dominguez
Downey	Hawaiian Gardens
Home Gardens	Lakewood
Huntington Park	Long Beach
Lynwood	Los Alamitos
Maywood	Terminal Island
Paramount	Wilmington
South Gate	Harbor City
Rolling Hills	Palos Verdes Estates
Torrace	Palos Verdes Peninsula
Artesia	San Pedro
Bell	Los Angeles
Bellflower	Postal Zones:
Bell Gardens	90009
Willowbrook	90045

(Secs. 1102 and 1152 of the Social Security Act (42 U.S.C. 1302 and 1320c–1))

(Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program; No. 13.773 Medicare-Hospital Insurance; No. 13.74 Medicare-Supplementary Medical Assurance)

Dated: June 3, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: July 11, 1980.

Nathan J. Stark,

Acting Secretary.

[FR Doc. 80-21836 Filed 7-16-80; 8:45 am]

BILLING CODE 4110-35-M

Public Health Service

Center for Disease Control

42 CFR Part 51b

Grants for Preventive Health Services; Grants for Fluoridation

AGENCY: Center for Disease Control, Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the final regulation, published in the **Federal Register** on September 26, 1979, which applies to the award of grants for establishing and maintaining community and school-based fluoridation programs. The amendment provides for special consideration for grants to dental manpower shortage areas and clarifies the definition of "optimal fluoride level."

DATE: This regulation is effective July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Windell R. Bradford, Associate Director, Bureau of State Services, Center for Disease Control, Atlanta, Georgia 30333, telephone (404) 329–3773 or FTS: 236–3773.

SUPPLEMENTARY INFORMATION: The Health Services and Centers Amendments of 1978 (Public Law 95–626), approved November 10, 1978, and corrected by Senate Joint Resolution 14 (Public Law 96–32), approved July 10, 1979, added authority to Section 317 of the Public Health Service Act for the award of grants to establish and maintain community and school-based fluoridation programs. A regulation applicable to the award of these grants was published in the **Federal Register** on September 26, 1979 (44 FR 55378), as a Final Rule (with subsequent comment period) to provide a regulatory base for the award of grants authorized to begin during fiscal year 1979.

The purpose of the grant program is to assist State agencies, political subdivisions of States, or other public agencies authorized to supply potable water for public consumption in carrying out local community and school water fluoridation programs and, where approved, to provide support for measures other than fluoridating water to protect teeth.

There were no comments or recommendations received from the public for changes in the regulation as published. However, two changes are made as a result of internal Departmental review. One change provides for special consideration to dental manpower shortage areas in the competition for grant funds. The other change clarifies the definition of "optimal fluoride level" because the definition, as published, is not technically correct.

Title 42, Part 51b, of the Code of Federal Regulations, Subpart G—Grants for Fluoridation, is amended as set forth below.

Dated: June 4, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 11, 1980.

Nathan J. Stark,

Acting Secretary.

Parts 51b, Subpart G, is amended as follows:

§ 51b.702 [Amended]

1. Section 51b.702—The definition of "optimal fluoride level" is changed to read as follows:

"Optimal fluoride level" means the recommended fluoride level in drinking water in a specific community water system which is determined by the annual average of maximum daily air temperature over a 5-year period.

2. Section 51b.705 is amended by adding the following subparagraph after subparagraph (b)(3):

§ 51b.705 How will grant applications be evaluated and grants awarded?

* * * * *

(b) * * *

(4) Number of individuals who will be provided with fluoridation who reside in areas designated by the Secretary as dental manpower shortage areas.

[FR Doc. 80-21756 Filed 7-19-80; 8:45 am]

BILLING CODE 4110-86-M

Public Health Service

42 CFR Part 58

Grants for Allied Health Projects

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: These regulations set forth requirements for grants to: (a) Establish regional or State systems to assure that allied health and nursing personnel needs in the area are met by coordinating and managing allied health professions and nursing education and training within and among educational institutions and their clinical affiliates;

(b) Establish or improve recruitment, training, and retraining programs for allied health personnel; and

(c) Establish career ladders and advancement programs for practicing allied health personnel.

These regulations implement section 796 of the Public Health Service Act.

EFFECTIVE DATE: These regulations are effective July 21, 1980.

FOR FURTHER INFORMATION CONTACT: David B. Hoover, Acting Director, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782 (301-436-6838).

SUPPLEMENTARY INFORMATION: In the Federal Register of December 21, 1978, the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, added a new Subpart E to Part 58 of Title 42 of the Code of Federal Regulations, entitled "Grants for Allied Health Projects" to implement section 796 of the Public Health Service Act (the Act).

Interested persons were invited to submit comments on the proposed regulations on or before February 20, 1979. Thirty-one comments were received. The comments received and the Department's response to the comments are set forth below. For clarity, the comments, the Department's response to the comments, and revisions have been arranged according to the relevant sections of the proposed regulation.

§ 58.401(a) To what projects do these regulations apply?

Several persons commented on the inclusion of nursing within the regulations—either proposing that additional areas of nursing education be made eligible for support or recommending deletion of any reference to nursing projects for purposes of grant support. Another respondent felt that the regulations failed to clarify the conditions under which nursing is included in section 796(a) of the Act and correctly noted that the section is in all other respects limited to allied health education and training programs.

The Department points out that among the six purposes identified under section 796(a), only one, the establishment of regional or State systems under section 796(a)(1), includes the education and training of nurses. Regional or State systems may under that provision receive grant assistance "for the *coordination and management* of education and training at various levels for allied health personnel and nurses within and among educational institutions and their clinical affiliates for the purpose of assuring that the needs of such region or State for allied health personnel and nurses are substantially met" (emphasis added). Nursing education and training programs are eligible for grant support under section 796 only within this context, and are not, of themselves, eligible for support. Since the regulations specifically define the projects eligible for grant support, no changes have been made.

§ 58.402 Definitions.

Several respondents expressed concern that the list of allied health professions shown in the regulation was incomplete.

The list appears as a part of the definition of a "training center for allied health professions" and is intended to specify, as required by section 795(2) of the Act, the educational programs at various degree levels that a junior college, college, or university must provide in order to be eligible for grant support as a training center. Certain disciplines appearing on the list are specified in the statute, while others have been added by the Secretary. In specifying the educational programs to be provided by a training center, primary consideration was given to disciplines which are widely used across the nation in health care institutions and other health care delivery settings. The Department believes that this list accurately reflects these disciplines, so no changes have been made.

Several respondents suggested revisions to the degree levels specified in the list. Respondents suggested that dental hygiene be included at the bachelor's level as well as the associate degree level, that clinical psychologists be included at the master's level as well as the doctoral degree level, that only baccalaureate level programs be included and that advanced degrees be included for all disciplines. No changes, however, have been made to the disciplines shown under the degree levels in the listing. In compiling the list of educational programs leading to specific degrees in designated allied health disciplines, the Department was guided by the level of education specified by the appropriate certifying or licensing bodies for purposes of entry into each field.

Comments were received concerning the requirement that a junior college, college, or university, in order to qualify as a training center, have a teaching hospital as part of the grantee institution or have an affiliation with a teaching hospital in the form of a written agreement which meets conditions set out in § 58.404 of the regulations. One respondent proposed that the requirement be dropped and another proposed that "clinical affiliation" be substituted for affiliation with a teaching hospital.

In the definition of a training center, section 795(2)(c) of the Act requires affiliation with a "teaching hospital" and provides the Secretary with the authority to specify by regulation the extent and manner of an affiliation. The intent of the legislation is to provide for appropriate clinical training or experience, if required, for the completion of a designated curriculum or educational program leading to a degree in an allied health discipline or occupation. An affiliation with a teaching hospital is required only if clinical training in such a facility is a requirement of the curriculum.

In allied health programs with curriculums which do not require clinical training in a teaching hospital (e.g., dental hygiene/environmental health), other clinical experience in an appropriate health facility or setting acceptable to the certifying or licensing body of that profession or occupation will serve to satisfy the requirement of affiliation with a teaching hospital. All clinical affiliations must, however, be established by a written agreement meeting the requirements of § 58.404 of the program regulations. Accordingly, paragraph (c) of § 58.402 has been revised to clarify the requirement.

Finally, two respondents proposed deleting the requirement that a training center have a single administrative unit with an identified budget and faculty with responsibility for:

(1) All allied health education programs offered by the center;

(2) Allied health curriculum development;

(3) Allied health student recruitment and counseling;

(4) Development of appropriate clinical affiliations;

(5) Placement of students for the clinical portion of the program; and

(6) Standards of student performance in technical portions of the program.

One respondent felt that the requirement was too restrictive and did not allow for institutional differences.

The Department feels that the intent of the legislation in authorizing grants to eligible entities to assist them in meeting the costs of planning, developing, demonstrating, operating, and evaluating training centers would not be served by deleting this requirement. A training center with no administrative unit or with more than one administrative unit would either be unable to function effectively or would be duplicative in the performance of its functions. In both cases, serious questions of capability and cost effectiveness would be raised.

Accordingly, no changes in these requirements have been made.

The final regulations have been restructured based on "Operation Common Sense", the Department's initiative to improve the quality and readability of its regulations. The grants administration and nondiscrimination provisions have either been revised to reflect current policy or deleted as duplicative of the Department's grants administration regulation (45 CFR Part 74). All provisions have been reorganized into a standardized format for health professions grants regulations.

Accordingly, Subpart E of 42 CFR Part 58 is set forth below.

Dated: May 29, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 14, 1980.

Patricia Roberts Harris,

Secretary.

Subpart E—Grants for Allied Health Projects

Sec.

58.401 To what programs do these regulations apply?
58.402 Definitions.
58.403 Who is eligible to apply for a grant?
58.404 What are the requirements of an affiliation?
58.405 [Reserved]
58.406 What projects can be supported?
58.407 Project requirements.
58.408 How will applications be evaluated?
58.409 How long does grant support last?
58.410 For what purposes may grant funds be spent?
58.411 What health planning requirements must be met?
58.412 What additional Department regulations apply to grantees?
58.413 What other audit and inspection requirements apply to grantees?
58.414 Additional conditions.

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 796, Public Health Service Act, 90 Stat. 2307 (43 U.S.C. 295h–5).

Subpart E—Grants for Allied Health Projects

§ 58.401 To what programs do these regulations apply?

These regulations apply to grants under section 796 of the Public Health Service Act (42 CFR Parts 295h–5) for planning, developing, demonstrating, operating, and evaluating projects to:

(a) Establish regional or State systems to assure that allied health and nursing personnel needs in the area are met by coordinating and managing allied health professions and nursing education and training within and among educational institutions and their clinical affiliates;

(b) Establish or improve recruitment, training, and retraining programs for allied health personnel; and

(c) Establish career ladders and advancement programs for practicing allied health personnel.[1]

§ 58.402 Definitions.

"Act" means the Public Health Service Act.

"Allied health personnel" means individuals with at least one academic year of substantive health training beyond the high school level, including clinical training, in a field which qualifies them to: (a) Support, complement, or supplement physicians, dentists, and other health professionals in the delivery of health care of patients, or (b) assist environmental engineers in environmental health control and preventive medicine activities.

"College or university" means a public or nonprofit private educational institution which is accredited by a recognized body or bodies approved for this purpose by the Secretary of Education.

"Junior college" means a public or nonprofit private school accredited by a recognized body or bodies approved for this purpose, which provides education programs beyond the high school level and offers an associate degree as the highest earned academic degree.

"Nonprofit," as applied to an entity, means an entity no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Secretary" means the Secretary of the Department of Health and Human Services or any officer or employee of the Department to whom the authority involved has been delegated.

"State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"Training Center for allied health professions" or "center" means a junior college, college, or university which:

(a) Provides educational programs leading to an associate, baccalaureate, or higher degree in any of the following disciplines:

Doctoral Degree

Clinical Psychologists

Master's Degree

Speech Pathology/Audiology

Bachelor's Degree

Dietitian (Coordinated undergraduate program)
Community Health Educator
Health Services Administrator
Medical Record Administrator
Medical Technologist
Occupational Therapist
Physical Therapist
Primary Care Physician Assistant
Sanitarian (Environmental Health)

Associate Degree

Clinical Dietetic Technician
Cytotechnologist
Dental Assistant
Dental Hygienist
Dental Laboratory Technician
Medical Assistant
Medical Laboratory Technician
Medical Record Technician
Occupational Therapy Assistant
Ophthalmic Medical Assistant
Optometric Technician
Physical Therapy Assistant
Radiologic Technologist
Respiratory Therapist
Sanitarian Technician

(b) Provides training for no fewer than 20 persons in the substantive health portion, including clinical experience as

[1] The following additional purposes provided for under section 796 of the Act will be supported by contract:

(1) The establishment of new roles and functions for allied health personnel and methods for increasing the efficiency of health manpower through more effective use of allied health personnel in various practice settings;

(2) The establishment of new or improved methods of credentialing allied health personnel; and,

(3) The establishment of continuing education programs for practicing allied health personnel.

required for employment, in three or more of the disciplines listed in paragraph (a) of this definition, and has a minimum of six full-time students in that portion of each curriculum by October 15 of the fiscal year of application;

(c) Has a teaching hospital as part of the grantee institution or is affiliated with a teaching hospital my means of a written agreement meeting the requirements of § 58.404. The term "teaching hospital" includes other settings which provide clinical or other health services if they fulfill the requirement for clinical experience specified in an allied health curriculum;

(d) Is accredited institutionally and programmatically (if programmatic accreditation is required for graduates to be licensed or certified) by a recognized body or bodies approved for this purpose by the Secretary of Education or provides assurance satisfactory to the Secretary from the appropriate accrediting body that reasonable progress is being made toward accreditation; and

(e) Has a single administrative unit with an identified budget and faculty which is responsible for:

(1) All allied health education programs offered by the center;

(2) Allied health curriculum development;

(3) Allied health student recruitment and counseling;

(4) Development of appropriate clinical affiliations;

(5) Placement of students for the clinical portion of the program; and

(6) Standards of student performance in technical portions of the program.

§ 58.403 Who is eligible to apply for a grant?

The following entities are eligible to apply for a grant under this subpart:

(a) States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions of States or both.

(b) Colleges or universities or junior colleges located in a State, or State higher educational system, including but not limited to those with a training center for allied health professions (as defined in § 58.402). If the project for which support is requested includes clinical training, these entities must have an affiliation, as described in § 58.404, with a clinical facility.

(c) Public or nonprofit private entities located in a State, which provide health services and have an affiliation, as described in § 58.404, with a junior college, college, or university, or

(d) Other public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in § 58.406.

§ 58.404 What are the requirements of an affiliation?

The affiliations required of centers in § 58.402 and of public or nonprofit private entities in § 58.403(b) and (c) must be evidenced by written agreements which include the following:

(a) A description of the working relationship and the responsibilities of the junior college, college, or university, and the entity providing health services, and of their joint responsibility with respect to the clinical and academic training of the program;

(b) An assurance that the curriculum and resources of the program have been examined and approved by both the faculty of the junior college, college, or university, and by the staff of the entity providing health services;

(c) A description of the method of enforcement of the agreement; and

(d) A description of the procedure for termination of the agreement.

§ 58.405 [Reserved]

§ 58.406 What projects can be supported?

(a) The following projects are eligible for grants under this subpart:

(1) Projects to plan, develop, demonstrate, operate, and evaluate a regional or State system to coordinate and manage allied health and nursing education and training within and among educational institutions and their clinical affiliates which perform all of the following activities:

(i) Assemble, analyze, and distribute data on allied health and nurse manpower supply and needs for the region or State which the project serves;

(ii) Maintain and distribute data on operating allied health and nursing education programs within the region or State which the project serves;

(iii) Coordinate experimental activities within the region or State being served which affect the education or training of allied health professionals and nurses; and

(iv) Develop rationales for establishing new or continuing existing educational programs for allied health and nursing personnel, determining required enrollment levels, and assuring adequate clinical affiliations for these programs.

(2) Projects to plan, develop, demonstrate, operate, and evaluate programs to establish or improve the recruitment, training, and retraining of allied health personnel, which include at least one of the following activities:

(i) Improving the quality of the allied health curricula by:

(A) Relating course content, methods, and progress evaluation to necessary job skills;

(B) Integrating didactic and clinical education to streamline and improve the entire learning experience; and

(C) Using and developing more creative and effective teaching or student progress evaluation procedures in didactic or clinical education;

(ii) Improving coordination between programs for the education or training of allied health personnel, both within institutions and among cooperating institutions;

(iii) Implementing training programs for specific groups, such as returning veterans, disadvantaged persons, minorities, the handicapped, persons with limited English speaking ability, and persons re-entering an allied health field;

(iv) Expanding enrollment in allied health training programs in fields in which there is a documented need for allied health personnel; or

(v) Establishing allied health training programs in the area served by the institution if there is a documented need for the program or a documented allied health manpower shortage.

(3) Projects to plan, develop, demonstrate, operate, and evaluate programs to establish career ladders or improved programs for practicing allied health personnel which:

(i) Establish a system for career advancement for allied health personnel at the place of employment, such as structured work experiences to enable them to advance their job levels and responsibilities within their fields, or

(ii) Provide college education, on a full or part-time basis, for presently employed allied health personnel which will enable them to advance within their fields.

(b) The following projects are ineligible for funding under this subpart:

(1) Projects which provide inservice training, which is training offered by an entity principally for the employees of that entity, and

(2) Projects which provide continuing education, which is training needed by persons currently employed in a field of allied health to maintain competency at the current entry level.

§ 58.407 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) Each program must have a program director who is responsible for the conduct of the program and has been approved by the Secretary.

(b) In the case of projects described in § 58.406(a)(2) and (3), the grantee must complete the following program development activities within one year:

(1) The selection and appointment of key staff;

(2) The development of the curriculum and courses, where applicable; and

(3) Acquisition of additional staff and other resources necessary to implement the program.

§ 58.408 How will applications be evaluated?

The Secretary will decide which applications to approve by considering among other factors:

(a) The potential effectiveness of the proposed project in carrying out the purposes of section 796 of the Act;

(b) The degree to which the proposed project adequately provides for the project requirements set forth in § 58.407;

(c) The administrative and management ability of the applicant to carry out the proposed project in a cost effective manner;

(d) The potential of the project to continue on a self-sustaining basis after the period of grant support; and

(e) The adequacy of the staff and faculty.

The Secretary will award grants within the limits of funds available to those approved applicants whose projects will best promote the purposes of section 796 of the Act. At least fifty percent of the funds appropriated for these grants will be reserved for award to training centers for allied health professions, as defined in § 58.402.

§ 58.409 How long does grant support last?

(a) The notice of grant award specifies how long the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed three years. The total length of support, including renewal, may not exceed five years.

(b) Generally, the grant will initially be funded for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of factors such as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of Federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward to the next budget period, for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withholding the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 58.410 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) Grantees may not spend grant funds for sectarian instruction or for any religious purpose.

§ 58.411 What health planning requirements must be met?

A grant may be made under this subpart only if the applicable requirements of Title XV of the Act relating to review and approval by the appropriate health systems agency have been met.

§ 58.412 What additional Department regulations apply to grantees?

Several other regulations apply to these grants. They include, but are not limited to:

42 CFR Part 50—PHS grant appeals process
45 CFR Part 16—Department grant appeals process
45 CFR Part 74—Administration of grants
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department—Implements Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80
45 CFR Part 83—Nondiscrimination on the basis of sex in the admission of individuals to training programs
45 CFR Part 84—Nondiscrimination on the basis of handicap in Federally assisted programs
45 CFR Part 86—Nondiscrimination on the basis of sex in Federally assisted education programs
45 CFR Part 91[2]—Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance.

§ 58.413 What other recordkeeping, audit, and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act concerning recordkeeping, audit, and inspection.

§ 58.414 Additional conditions.

The Secretary may impose additional conditions on any grant award before or at the time of any award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 80-21789 Filed 7-18-80; 8:45 am]
BILLING CODE 4110-83-M

Public Health Service

Center for Disease Control

42 CFR Part 72

Interstate Shipment of Etiologic Agents

AGENCY: Center for Disease Control, Public Health, Service, HHS.

ACTION: Final rule.

SUMMARY: This rule modifies the requirements for the interstate shipment of etiologic agents, diagnostic specimens, and biological products by: (1) Correcting the scientific nomenclature and expanding and updating the list of etiologic agents subject to the requirements of this part; (2) providing for future revisions of the list of agents by publication of a notice in the **Federal Register**; (3) increasing the maximum volume of etiologic agent in a single primary container from 500 milliliters (mL) to 1,000 mL; and (4) clarifying the packaging, labeling, and shipping requirements for materials such as cultures, clinical specimens, and vaccines which contain or may contain an etiologic agent.

The changes are made because the scientific nomenclature of some of the agents listed in the existing regulation is not consistent with that in current use, and the list does not include a number of newly described agents (*Legionella*

[2] When issued.

pneumophila and other Legionella-like organisms, Ebola fever virus) or agents considered of minor importance or not associated with disease when the list was prepared in 1971 (*Campylobacter foetus, Campylobacter jejuni,* and *Vibrio parahemolyticus*). The simplified procedure for adding newly recognized pathogens to the list of agents by publication of a Notice in the **Federal Register** will facilitate the maintenance of a current and pertinent list of agents.

DATE: Effective date: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. John H. Richardson, Director, Office of Biosafety, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephone (404) 329–3885 or FTS: 236–3885.

SUPPLEMENTARY INFORMATION: The requirements set forth in this regulation are intended to prevent the exposure and possible infection of transportation personnel and others to infectious materials in interstate transit by: requiring containment packaging for known or potentially infectious agents and materials; identifying known or potentially infectious materials with a hazard warning label; providing a system for reporting and responding to damaged or leaking packages of etiologic agents; and specifying special requirements for the shipments of highly infectious agents.

On November 21, 1979, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** (44 FR 66853) to amend § 72.25, 42 CFR Part 72, entitled "Interstate Shipment of Etiologic Agents." The NPRM proposed modifications in the list of etiologic agents to which the requirements of this Part are applicable and simplified the procedure for amending this list of agents by publication of a Notice in the **Federal Register.** In addition, the NPRM proposed revisions for clarifying the packaging, labeling and shipping requirements for these etiologic agents.

COMMENTS: A period of 60 days was given for public comment on the proposed revisions. Written and telephone comments, questions, and suggestions were received from a limited number of interested parties. These comments were carefully reviewed and are discussed below.

One comment related to the requirement that the sender of highly hazardous agents notify the Director, CDC, if the sender has not received confirmation of delivery by the intended recipient within 5 days of anticipated delivery date. Because of "deteriorating" delivery services, it was suggested that notification of failure to receive the agent be extended to "7 working days." This change is not warranted since the wording of this requirement "within 5 days of anticipated delivery" allows judgment in realistically assessing a delivery date that considers the efficiency of the Postal Service or other transportation systems.

Two inquiries related to the use of the "INFECTIOUS SUBSTANCE" hazard warning label required by the International Air Transport Association (IATA) for use in the international shipment of etiologic agents. The Etiologic Agent label with instructions for calling the Director, CDC, and listing a committed telephone are vital to the reporting system for damaged or leaking shipments of etiologic agents. The IATA hazard warning label does not provide the necessary instructions and telephone number, and would not meet the needs of a viable reporting system.

One inquiry suggested expanding the etiologic agent list to include plasma and other materials known or potentially infectious for hepatitis A and hepatitis nonA-nonB. Although present diagnostic procedures cannot conclusively define the presence or absence of these two hepatitis agents, this recommendation is consistent with the intent of the regulation. These two agents have been added to the list of agents. Another recommendation relates to the rapidly changing taxonomic status of the group of etiologic agents associated with Legionnaire's disease. Since *Legionella pneumophila* may be subdivided into a number of additional species in the coming months, the list of agents is being amended to read: "*Legionella*—all species and all Legionella-like organisms."

One inquiry related to the applicability of the packaging, labeling, and shipping requirements for whole human blood and plasma being transported for the purposes of transfusion. These materials do not fall within the purview of this regulation, and the commenter was so advised.

Comments were also received from a large biologics manufacturer relative to the maximum volume (500 mL) of an etiologic agent permitted in a single primary container. Based on practices which are representative of many other biologics producers, the commenter pointed out that human plasma collected and pooled at plasmaphoresis centers is examined for evidence of hepatitis B virus. Pooled sera which are found to be potentially infectious are excluded from being used in the production of therapeutic products. Such potentially infectious plasma is, however, essential in the production of diagnostic reagents and to other activities such as research on hepatitis. It was further pointed out that while such pooled plasma typically exceeds 500 mL., most do not exceed 1,000 mL. Presently, such plasma must be subdivided into two or more smaller containers to meet the maximum allowable volume of 500 mL. The commenter contended that such manipulations unnecessarily subject personnel at a large number of plasmaphoresis centers to exposure to potentially infectious plasma. It was further stated that the containment packaging procedures required for 500 mL quantities of infectious materials provide an equal level of containment for quantities of at least 1,000 mL. We agree with this position and are amending § 72.3(b) to allow a maximum of 1,000 mL of etiologic agent in a single primary container.

Provisions in Part 72 relating to interstate quarantine generally have been transferred to Title 21 (Food and Drugs) of the Code of Federal Regulations. Provisions in Subpart J of Title 42 relating to drinking water standards are now set forth in Title 40 (Protection of Environment). Therefore, Subpart J of Part 72 of Title 42, Code of Federal Regulations, is hereby rescinded; the title of Part 72 is changed to Interstate Shipment of Etiologic Agents; and Part 72 is amended as set forth below.

Dated: June 5, 1980.

Julius B. Richmond,

Assistant Secretary of Health.

Approved: July 11, 1980.

Nathan J. Stark,

Acting Secretary.

PART 72—INTERSTATE SHIPMENT OF ETIOLOGIC AGENTS [1]

Sec.

72.1 Definitions.
72.2 Transportation of diagnostic specimens, biological products, and other materials; minimum packaging requirements.
72.3 Transportation of materials containing certain etiologic agents; minimum packaging requirements.
72.4 Notice of delivery; failure to receive.
72.5 Requirements; variations.

Authority: Sec. 215, 58 Stat. 690, as amended, 42 U.S.C. 216; sec. 361, 58 Stat. 703, (42 U.S.C. 264)

§ 72.1 Definitions.

As used in this part:

"Biological product" means a biological product prepared and manufactured in accordance with the

[1] The requirements of this part are in addition to and not in lieu of any other packaging or other requirements for the transportation of etiologic agents in interstate traffic prescribed by the Department of Transportation and other agencies of the Federal Government.

provisions of 9 CFR Parts 102–104 and 21 CFR Parts 312 and 600–680 and which, in accordance with such provisions, may be shipped in interstate traffic.

"Diagnostic specimen" means any human or animal material including, but not limited to, excreta, secreta, blood and its components, tissue, and tissue fluids being shipped for purposes of diagnosis.

"Etiologic agent" means a viable microorganism or its toxin which causes, or may cause, human disease.

"Interstate traffic" means the movement of any conveyance or the transportation of persons or property, including any portion of such movement or transportation which is entirely within a State or possession, (a) from a point of origin in any State or possession to a point of destination in any other State or possession, or (b) between a point of origin and a point of destination in the same State or possession but through any other State, possession, or contiguous foreign country.

§ 72.2 Transportation of diagnostic specimens, biological products, and other materials; minimum packaging requirements.

No person may knowingly transport or cause to be transported in interstate traffic, directly or indirectly, any material including, but not limited to, diagnostic specimens and biological products which such person reasonably believes may contain an etiologic agent unless such material is packaged to withstand leakage of contents, shocks, pressure changes, and other conditions incident to ordinary handling in transportation.

§ 72.3 Transportation of materials containing certain etiologic agents; minimum packaging requirements.

Notwithstanding the provisions of § 72.2, no person may knowingly transport or cause to be transported in interstate traffic, directly or indirectly, any material (other than biological products) known to contain, or reasonably believed by such person to contain, one or more of the following etiologic agents unless such material is packaged, labeled, and shipped in accordance with the requirements specified in paragraphs (a)–(f) of this section:

Bacterial Agents

Acinetobacter calcoaceticus.
Actinobacillus—all species.
Actinomycetaceae—all members.
Aeromonas hydrophila.
Arachnia propionica.
Arizona hinshawii—all serotypes.
Bacillus anthracis.
Bacteroides spp.
Bartonella—all species.
Bordetella—all species.
Borrelia recurrentis, B. vincenti.
Brucella—all species.
Campylobacter (Vibrio) foetus, C. (Vibrio) jejuni.
Chlamydia psittaci, C. trachomatis.
Clostridium botulinum, Cl. chauvoei, Cl. haemolyticum, Cl. histolyticum, Cl. novyi, Cl. septicum, Cl. tetani.
Corynebacterium diphtheriae, C. equi, C. haemolyticum, C. pseudotuberculosis, C. pyogenes, C. renale.
Edwarsiella tarda.
Erysipelothrix insidiosa.
Escherichia coli, all enteropathogenic serotypes.
Francisella (Pasteurella) Tularensis.
Haemophilus ducreyi, H. influenzae.
Klebsiella—all species and all serotypes.
Legionella—all species and all Legionella-like organisms.
Leptospira interrogans—all serovars.
Listeria—all species.
Mimae polymorpha.
Moraxella—all species.
Mycobacterium—all species.
Mycoplasma—all species.
Neisseria gonorrhoeae, N. meningitidis.
Nocardia asteroides.
Pasteurella—all species.
Plesiomonas shigelloides.
Proteus—all species.
Pseudomonas mallei.
Pseudomonas pseudomallei.
Salmonella—all species and all serotypes.
Shigella—all species and all serotypes.
Sphaerophorus necrophorus.
Staphylococcus aureus.
Streptobacillus moniliformis.
Streptococcus pneumoniae.
Streptococcus pyogenes.
Treponema careteum, T. pallidum, and *T. pertenue.*
Vibrio cholerae, V. parahemolyticus.
Yersinia (Pasteurella) pestis, Y. enterocolitica.

Fungal Agents

Blastomyces dermatitidis.
Coccidioides immitis.
Cryptococcus neoformans.
Histoplasma capsulatum.
Paracoccidioides brasiliensis.

Viral and Rickettsial Agents

Adenoviruses—human—all types.
Arboviruses—all types.
Coxiella burnetii.
Coxsackie A and B viruses—all types.
Creutzfeldt—Jacob agent
Cytomegaloviruses.
Dengue viruses—all types.
Ebola virus.
Echoviruses—all types.
Encephalomyocarditis virus.
Hemorrhagic fever agents including, but not limited to, Crimean hemorrhagic fever (Congo), Junin, Machupo viruses, and Korean hemorrhagic fever viruses.
Hepatitis associated materials (hepatitis A, hepatitis B, hepatitis nonA-nonB).
Herpesvirus—all members.
Infectious bronchitis-like virus.
Influenza viruses—all types.
Kuru agent.
Lassa virus.
Lymphocytic choriomeningitis virus.
Marburg virus.
Measles virus.
Mumps virus.
Parainfluenza viruses—all types.
Polioviruses—all types.
Poxviruses—all members.
Rabies virus—all strains.
Reoviruses—all types.
Respiratory syncytial virus.
Rhinoviruses—all types.
Rickettsia—all species.
Rochalimaea quintana.
Rotaviruses—all types.
Rubella virus.
Simian virus 40.
Tick-borne encephalitis virus complex, including Russian spring-summer encephalitis, Kyasanur forest disease, Omsk hemorrhagic fever, and Central European encephalitis viruses.
Vaccinia virus.
Varicella virus.
Variola major and Variola minor viruses.
Vesicular stomatis viruses—all types.
White pox viruses.
Yellow fever virus.[2]

(a) *Volume not exceeding 50 ml.* Material shall be placed in a securely closed, watertight container (primary container (test tube, vial, etc.)) which shall be enclosed in a second, durable watertight container (secondary container). Several primary containers may be enclosed in a single secondary container, if the total volume of all the primary containers so enclosed does not exceed 50 ml. The space at the top, bottom, and sides between the primary and secondary containers shall contain sufficient nonparticulate absorbent material (e.g., paper towel) to absorb the entire contents of the primary container(s) in case of breakage or leakage. Each set of primary and secondary containers shall then be enclosed in an outer shipping container constructed of corrugated fiberboard, cardboard, wood, or other material of equivalent strength.

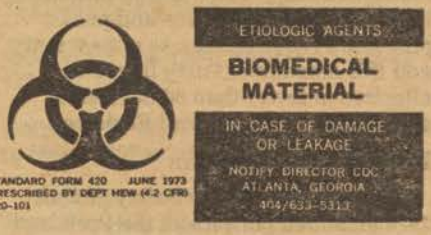
(b) *Volume greater than 50 ml.* Packaging of material in volumes of 50 ml. or more shall comply with requirements specified in paragraph (a) of this section. In addition, a shock absorbent material, in volume at least equal to that of the absorbent material between the primary and secondary containers, shall be placed at the top, bottom, and sides between the secondary container and the outer shipping container. Single primary containers shall not contain more than 1,000 ml of material. However, two or more primary containers whose combined volumes do not exceed 1,000 ml may be placed in a single, secondary container. The maximum amount of

[2] This list may be revised from time to time by Notice published in the Federal Register to identify additional agents which must be packaged in accordance with the requirements contained in this part.

etiologic agent which may be enclosed within a single outer shipping container shall not exceed 4,000 ml.

(c) *Dry ice.* If dry ice is used as a refrigerant, it must be placed outside the secondary container(s). If dry ice is used between the secondary container and the outer shipping container, the shock absorbent material shall be placed so that the secondary container does not become loose inside the outer shipping container as the dry ice sublimates.

(d)(1) The outer shipping container of all materials containing etiologic agents transported in interstate traffic must bear a label as illustrated and described below:



(2) The color of material on which the label is printed must be white, the symbol red, and the printing in red or white as illustrated.

(3) The label must be a rectangle measuring 51 millimeters (mm) (2 inches) high by 102.5 mm (4 inches) long.

(4) The red symbol measuring 38 mm (1½ inches) in diameter must be centered in a white square measuring 51 mm (2 inches) on each side.

(5) Type size of the letters of label shall be as follows:

Etiologic agents—10 pt. rev.
Biomedical material—14 pt.
In case of damage or leakage—10 pt. rev.
Notify Director CDC, Atlanta, Georgia—8 pt. rev.
404–633–5313—10 pt. rev.

(e) *Damaged packages.* The carrier shall promptly, upon discovery of evidence of leakage or any other damage to packages bearing an Etiologic Agents/Biomedical Material label, isolate the package and notify the Director, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, GA 30333, by telephone: (404) 633–5313. The carrier shall also notify the sender.

(f) *Registered mail or equivalent system.* Transportation of the following etiologic agents shall be by registered mail or an equivalent system which requires or provides for sending notification of receipt to the sender immediately upon delivery:

Coccidioides immitis.
Ebola virus.
Francisella (Pasteurella) tularensis.
Hemorrhagic fever agents including, but not limited to, Crimean hemorrhagic fever (Congo), Junin, Machupo viruses, and Korean hemorrhagic fever viruses.
Herpesvirus simiae (B virus).
Histoplasma capsulatum.
Lassa virus.
Marburg virus.
Pseudomonas mallei.
Pseudomonas pseudomallei.
Tick-borne encephalitis virus complex including, but not limited to, Russian spring-summer encephalitis, Kyasanur forest disease, Omsk Hemorrhagic fever, and Central European encephalitis viruses, Variola minor, and Variola major.
Variola major, Variola minor, and Whitepox viruses.
Yersinia (Pasteurella) pestis.[3]

§ 72.4 Notice of delivery; failure to receive.

When notice of delivery of materials known to contain or reasonably believed to contain etiologic agents listed in § 72.3(f) is not received by the sender within 5 days following anticipated delivery of the package, the sender shall notify the Director, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, GA 30333 (telephone (404) 633–5313).

§ 72.5 Requirements; variations.

The Director, Center for Disease Control, may approve variations from the requirements of this section if, upon review and evaluation, it is found that such variations provide protection at least equivalent to that provided by compliance with the requirements specified in this section and such findings are made a matter of official record.

[FR Doc. 80-21757 Filed 7-18-80; 8:45 am]

BILLING CODE 4110-86-M

[3] This list may be revised from time to time by Notice published in the **Federal Register** to identify additional agents which must be transported in accordance with requirements contained in § 72.3(f).

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5734

[I-07702]

Idaho; Withdrawal for National Forest Campground

AGENCY: Bureau of Land Management (Interior).

ACTION: Public Land Order.

SUMMARY: This order withdraws 20 acres of national forest lands from the mining laws for use as a campground in the Boise National Forest.

EFFECTIVE DATE: July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Larry Livesay, Idaho State Office, 208–384–1735.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is hereby ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from entry or location under the mining laws (30 U.S.C. Ch. 2), in aid of programs of the Department of Agriculture:

Boise National Forest; Boise Meridian

Deer Flat Campground

T. 13 N., R. 8 E.,
Sec. 31, SE¼SW¼SW¼.
T. 12 N., R. 8 E.,
Sec. 6, NE¼NW¼NW¼.

The area described contains 20 acres in Valley County.

2. The withdrawal made by this order shall not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,

Assistant Secretary of the Interior.

July 11, 1980.

[FR Doc. 80-21731 Filed 7-18-80; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5849]

Communities With No Special Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program without a map.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1–4 family dwelling is $.25 per $100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.01 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $.05 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

The entry reads as follows:

§ 65.8 List of communities with no special flood hazard area.

State	County	Community name	Date of conversion to regular program
Arizona	Pinal	City of Coolidge.	06–10–80.
Colorado	Weld	Town of Ault.	Do.
Do.	Weld	Town of Gilcrest.	Do.
Iowa	Adair/Guthrie	City of Adair.	Do.
Do.	Monroe	City of Albia.	Do.
Do.	Carroll	Town of Arcadia.	Do.
Do.	Harrison	City of Mondamin.	Do.
Do.	Muscatine	City of Fruitland.	Do.
Do.	Dallas	City of Glidden.	Do.
Do.	Delaware	City of Greeley.	Do.
Do.	O'Brien	City of Hartley.	Do.
Do.	Linn	City of Lisbon.	Do.
Do.	Boone	City of Madrid.	Do.
Do.	Linn	City of Mount Vernon.	Do.
Do.	Monona	City of Rodney.	Do.
Do.	Woodbury	City of Sioan.	Do.
Do.	Carroll	City of Templeton.	Do.
Do.	Dickinson	City of Terril.	Do.
Do.	Allamakee	City of Waukon.	Do.
Kansas	Sedwick	City of Goddard.	Do.
Do.	Butler	City of Towanda.	Do.
Missouri	St. Louis	City of Flordell Hills.	Do.
Ohio	Cuyahoga	City of Mayfield Heights.	Do.
Oregon	Josephine	City of Cave Junction.	Do.
Penn	Armstrong	Borough of Apollo.	Do.
Do.	Washington	Borough of Donora.	Do.
Iowa	Wapello	City of Agency.	06–30–80.
Do.	Muscatine	City of Atalissa.	Do.
Do.	Lyon	City of Larenwood.	Do.
Missouri	Cass	City of Cneghton.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator).

Issued: June 27, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80–21732 Filed 7–18–80; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. No. 1–]

Delegation to the Administrator of the Saint Lawrence Seaway Development Corporation

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: This change delegates to the Administrator of the Saint Lawrence Seaway Development Corporation certain procedural functions vested in the Secretary of Transportation by the Port and Tanker Safety Act of 1978. This authority relates to the power to issue and enforce regulations and conduct investigations under the Act with respect to the Saint Lawrence Seaway. These powers are delegated to the Administrator because they implement substantive functions which were previously delegated to him.

EFFECTIVE DATE: July 21, 1980.

FOR FURTHER INFORMATION: Jack S. Lusk, Office of the General Counsel, Office of the Secretary, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590, (202/426–4723).

SUPPLEMENTARY INFORMATION: Since this amendment relates to departmental management, procedures and practices, it is excepted from notice and public procedure requirements as unnecessary and this amendment may be made effective in fewer than 30 days after publication in the **Federal Register.**

Discussion of Delegation

The Port and Tanker Safety Act of 1978 amended portions of the Ports and Waterway Safety Act of 1972. On February 16, 1979 (44 FR 10063), the Secretary delegated certain substantive authority under that Act with respect to the St. Lawrence Seaway to the Administrator of the Saint Lawrence Seaway Development Corporation. All other authority was delegated to the Commandant of the U.S. Coast Guard. This subsequent delegation is to give the Corporation's Administrator the authority to issue and enforce regulations and conduct investigations under the Act with respect to the St. Lawrence Seaway.

In consideration of the foregoing Part 1 of Title 49 of the Code of Federal Regulations is amended as follows:

1. By amending paragraph (n)(4) of § 1.46 to read:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(n) * * *

* * * * *

(4) Port and Tanker Safety Act of 1978 (92 Stat. 1471), except sections 4, 5, 6, 7, 8, 12 and 13 of Sec. 2 to the extent that those sections pertain to the operation of the St. Lawrence Seaway.

* * * * *

2. By amending paragraph (a) of § 1.52 to read:

§ 1.52 Delegation to the Administrator of the Saint Lawrence Seaway Development Corporation.

The Administrator of the Saint Lawrence Seaway Corporation is delegated authority to—

(a) Carry out the functions vested in the Secretary by sections 4, 5, 6, 7, 8, 12 and 13 of Sec. 2 of the Port and Tanker Safety Act of 1978 (92 Stat. 1471) as they relate to the operation of the St. Lawrence Seaway.

* * * * *

(49 U.S.C. 1657(e))

Issued in Washington, D.C., on July 15, 1980.

Neil Goldschmidt,

Secretary of Transportation.

[FR Doc. 80-21792 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-62-M

Materials Transportation Bureau

49 CFR Parts 172, 173, 178

[Docket No. HM-139 C Amdt. Nos. 172-59 173-139, 178-61]

Conversion of Individual Exemptions to Regulations of General Applicability

In FR Doc. 80-20310, in the issue of Thursday, July 10, 1980, appearing at page 46419, please make the following correction:

On page 46423, in the chart appearing in columns 2 and 3, note the very last line which reads "Boron. . ." and is followed by the number "0.005-0.003". This number should be changed to read "0.0005-0.003".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

Commission Organization: Delegations of Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The purpose of this document is to delegate authority to the Office of the Special Counsel. In the past such delegations have been part of the Commission's Internal Minutes. Due to the abolition of the Internal Minute System, public notice of this action is being made in a new section of the Code of Federal Regulations, 49 CFR 1011.8. Because this rule involves the internal organization and procedures of the Commission, it is issued in final form, and public comments are not being requested.

EFFECTIVE DATE: July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Kathleen M. King, 202-275-0956 or Edward J. Schack, 202-275-7411.

SUPPLEMENTAL INFORMATION: On April 21, 1980, the Commission approved a revised charter for the Office of Special Counsel. Formerly such delegation would have been issued as part of the Internal Minutes of the Commission, which were abolished December 19, 1978. On June 17, 1980, the Commission decided to establish for easier public access a new section of the Code of Federal Regulations, 49 CFR 1011.8, Delegations of Authority by the Commission to Specific Bureaus and Offices of the Commission. The revised charter for the Office of Special Counsel will be codified as 49 CFR 1011.8(a). Delegations to other Bureaus and Offices will be added to the section as the need arises.

Also on June 17, 1980, the Commission added the following additional provisions to the Special Counsel charter:

> So that parties having need of the assistance of the Office of Special Counsel will be adequately informed the Office of Hearings is directed, in noticing cases for public hearings to advise parties of the availability of this program. This provision will appear at 49 CFR 1011.8(a)(6).

Specifically this rule described the structure and role of the Office of Special Counsel. Additional information relating to the Office of Special Counsel is contained in the Mission and Function Statement of that Office, in the *ICC Administrative Manual*, maintained by the Managing Director of the Commission.

Part 1011, Title 49 of the Code of Federal Regulations is amended by adding a new section, 49 CFR 1011.8, Delegations of Authority by the Commission to Specific Bureaus and Offices of the Commission. That section reads as follows:

§ 1011.8 Delegations of Authority by the Interstate Commerce Commission to Specific Bureaus and Offices of the Commission.

(a) *Office of Special Counsel.* (1) There is established an Office to be known as the Office of Special Counsel. (2) The Office shall be headed by an officer to be known as the Special Counsel, who shall be appointed by the Chairman, subject to the approval of a majority of the Commission. (3) The mission of the Office will be to contribute to the development of a complete record in proceedings in which important aspects of the public interest otherwise would not be adequately explored. (4) The Special Counsel will coordinate the activities of the Office with other Bureaus and Offices and may request their assistance and services. (5) The Special Counsel will choose the proceedings in which to participate as a party in accordance with the mission of the Office. In addition, the Commission on its own initiative, may direct the Special Counsel's participation. (6) So that parties having need of the assistance of the Offices of Special Counsel will be adequately informed, the Office of Hearings is directed, in noticing cases for public hearings, to advise parties of the availability of this program.

This action does not significantly affect the quality of the human environment or energy consumption, issued under authority of 49 U.S.C. and 10301 and 5 U.S.C. 553.

Decided. June 17, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam, Vice Chairman Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21766 Filed 7-18-80; 8:45 am]

BILLING CODE 7035-01-M

---

49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fourth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

In particular, Fourth Revised Service Order No. 1473, deletes the authority for the Waterloo Railroad Company to serve Waterloo, Iowa, and permits the Fenn Valley Railway Company Inc., to operate between Caruso, Kansas, and Simla, Colorado.

EFFECTIVE DATE: 12:01 a.m., July 17, 1980, and continuing in effect until 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840.

Decided: July 15, 1980.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Fourth Revised Service Order No. 1473, is revised by making the following changes to Appendix A.

1. Item 11—to Appendix A of Third Revised Service Order No. 1473, (Waterloo Railroad) is deleted.

2. Items previously numbered 12–23 are renumbered one number less.

3. Item 23—is added permitting the Fenn Valley Railway Company Inc., to operate the track segment between Caruso, Kansas, and Simla, Colorado.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations, also identified in the attachment, using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Fourth Revised Service Order No. 1473.

(a) *Various Railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the RI lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees*—In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., July 17, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (L&A):*
   - A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of the Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.
   - B. from Hodge to Winnfield, Louisiana
   - C. Alexandria Yard, Alexandria, Louisiana
2. *Peoria and Pekin Union Railway Company (P&PU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.
3. *Union Pacific Railroad Company (UP):*
   - A. Beatrice, Nebraska
   - B. from Colby to Caruso, Kansas
   - C. approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam Nebraska
4. *Toledo, Peoria and Western Railroad Company (TP&W):*
   - A. Keokuk, Iowa
   - B. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois

5. *Burlington Northern, Inc. (BN):*
   A. Burlington, Iowa (milepost 0 to milepost 2.06)
   B. Fairfield, Iowa
   C. Henry, Illinois (milepost 126) to Peoria, Illinois (milepost 164.35) including the Keller Branch (milepost 1.55 to 8.62).
   D. Phillipsburg, Kansas (milepost 282) to CBQ Junction, Kansas (milepost 325.9)
6. *Fort Worth and Denver Railway Company (FW&D):*
   A. From Groom, Texas (milepost 718.9) to Adrian, Texas (milepost 809.5)
   B. Terminal trackage at Amarillo, Texas, including approximately (3) three miles northerly along the old Liberal Line, and at Bushland, Texas.
   C. North Fort Worth, Texas (milepost 603.0 to milepost 611.4)
7. *Chicago and North Western Transportation Company (C&NW):*
   A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri
   B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0)
   C. from Inver Grove (milepost 344.7) to Northwood, Minnesota
   D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6)
   E. from Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364)
   F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7)
   G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0)
   H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 502.2)
   I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2)
   J. from Iowa Falls (milepost 97.4) to Esterville, Iowa (milepost 206.9)
   K. from Rake (milepost 50.7) to Ocheyedan, Iowa (milepost 502)
   L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502)
   M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2)
   N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids
   O. from Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6)
   P. Sibley, Iowa
   Q. Worthington, Minnesota
   R. Altoona to Pella, Iowa
   S. Carlisle, Indianola, Iowa
   T. Omaha, Nebraska, (between milepost 502 to milepost 504).
   U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).
8. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee):*
   A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland
   B. from Seymour, to and including industry and team tracks at Centerville, Iowa
   C. Washington, Iowa
   D. from Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.
9. *Davenport, Rock Island and North Western Railway Company (DRI):*
   A. Davenport, Iowa
   B. Moline, Illinois
   C. Rock Island, Illinois, including 26th Street yard
   D. from Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex
   E. from East Moline to Silvis, Illinois
   F. from Davenport to Wilton, Iowa
   G. from Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island arsenal
10. *Illinois Central Gulf Railroad Company (ICG):* Ruston, Louisiana
11. *St. Louis Southwestern Railway Company (SSW):* operating the Tucumcari Line from Santa Rosa, NM, to St. Louis, MO (via Kansas City, KS/MO), a total distance of 965.2 miles. The line also includes the RI branch line from Bucklin to Dodge City, KS, a distance of 26.5 miles, and North Topeka, KS. Also between Brinkley and Briark, Arkansas, and at Stuttgart, Arkansas.
12. *The Southwestern Oklahoma Railroad Company:* from Hobart, Oklahoma (milepost 70) to Mangum, Oklahoma (milepost 97.7), and from Hobart, (milepost 70) to Anadarko, Oklahoma (milepost 18.5).
13. *Little Rock & Western Railway Company:* from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).
14. *Missouri Pacific Railroad Company:* from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.
15. *Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company:*
   A. Herington-Ft. Worth Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 439.5 miles to milepost 613.5 within the City of Ft. Worth, Texas, and use of Fort Worth and Denver trackage between Purina Junction and Tower 55 in Ft. Worth
   B. Ft. Worth-Dallas Line of Rock Island: beginning at milepost 611.9 within the City of Ft. Worth, Texas, and extending for a distance of 34 miles to milepost 646, within the City of Dallas, Texas
   C. El Reno-Oklahoma City Line of Rock Island: beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 496.4 within the City of Oklahoma City, Oklahoma
   D. Salina Branch Line of Rock Island: beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, including RI trackage rights over the line of the Union Pacific Railroad Company to Salina, (including yard tracks) Kansas
   E. Right to use joint with other authorized carriers the Herington-Topeka Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 81.6 miles to milepost 89.9 within the City of Topeka, Kansas, as bridge rights only
   F. Rock Island rights of use on the Wichita Union Terminal Railway Company and the Wichita Terminal Association, all located in Wichita, Kansas
   G. Rock Island right to interchange with and use the properties of the Great Southwest Railroad Company located in Grand Prairie, Texas
   H. The Atchison Branch from Topeka, at milepost 90.5, to Atchison, Kansas, at milepost 519.4 via St. Joseph, Missouri, at mileposts 0.0 and 498.3, including the use of interchange and yard facilities at Topeka, St. Joseph and Atchison, and the trackage rights used by the Rock Island to form a continuous service route, a distance of 111.6 miles
   I. The Ponca City Line at approximately milepost 26.1 at Billings, Oklahoma, to North Enid, Oklahoma, at milepost 339.5 on the Southern Division main line, a distance of 26.1 miles
   J. That part of the Mangum Branch Line from Chickasha, milepost 0.0 to Anadarko at milepost 18, thence south on the Anadarko Line at milepost 460.5 to milepost 485.3 at Richards Spur, a distance of 42.8 miles
   K. Oklahoma City-McAlester Line of Rock Island: Beginning at milepost 496.4 within the City of Oklahoma City, Oklahoma, and extending for a distance of 131.4 miles to milepost 365.0 within the City of McAlester, Oklahoma.
16. *El Dorado and Wesson Railroad Company:* from El Dorado to Catesville, Arkansas, a distance of 8 miles, in order to serve the Velsical Plant.
17. *The Denver and Rio Grande Western Railroad Company:*
   A. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado, (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.
18. *Norfolk and Western Railway Company:* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calument approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calument Expressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Junction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port District. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calument Harbor, West Side, will be

continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

19. *St. Louis-San Francisco Railroad Co.:*
A. At Okeene, Oklahoma.
B. At Lawton, Oklahoma.

20. *Southern Railway Company:*
A. At Memphis, Tennessee.

21. *Winchester and Western Railroad Company:*
A. LaSalle to Ottawa, Illinois, a distance of approximately 14 miles

22. *Cadillac and Lake City Railroad:*
A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 3.9) all in the vicinity of Denver, Colorado.

*23. *Fenn Valley Railroad Company Inc.:*
A. From Caruso, Kansas, (milepost 429.3) to Simla, Colorado, (milepost 556.3).

FR Doc. 80-21767 Filed 7-18-80; 8:45 am]
BILLING CODE 7035-01-M

---

49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Second Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee), (MILW) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over MILW's lines pending the implementation of long-range solutions, this order permits carriers, previously providing service under various individual service orders, to operate under authority of a single order which appendix describes their operations, and to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

In particular, this order adds trackage to the authority of the Chicago and North Western Transportation Company between Merriam Park and Norwood, Minnesota.

EFFECTIVE DATE: 12:01 a.m., July 17, 1980, and continuing in effect until 11:59 p.m., August 1, 1980, unless modified, amended or vacated by order of this Commission.

*Added.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Decided: July 15, 1980.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee), (MILW) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over MILW's lines pending the implementation of long-range solutions, this order permits carriers, previously providing service under various individual service orders, to operate under authority of a single order which appendix describes their operations, and to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Second Revised Service Order No. 1474, is revised by adding trackage to the authority of the Chicago and North Western Transportation Company, item 1, permitting an interim operation over additional lines in the state of Minnesota.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations, also identified in the attachment, using MILW tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1474 Second Revised Service Order No. 1474.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), as listed in Appendix A to this order, in order to provide interim service over the MILW.

(b) The Trustee shall permit the affected carriers to enter upon the property of the MILW to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced on the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the MILW Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the MILW lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the MILW estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with

pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees*—In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., July 17, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 1, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—MILW Lines Authorized To Be Operated by Interim Operators

1. Chicago and North Western Transportation Company (CNW):
   - A. At DeKalb, Illinois.
   - B. At Appleton, Wisconsin.
   - C. At Lake Preston, Mitchell, and Sioux Falls, South Dakota, and from Wolsey to but not including Aberdeen, South Dakota.
   - D. At Miloma and Montgomery, Minnesota.
   - E. Between Jefferson and Marathon, Jefferson and Waukee, and Manning and Huxley, Iowa.
   - * F. Between Merriam Park and Norwood, Minnesota.
2. Illinois Central Gulf Railroad Company (ICG):
   - A. Between Cedar Rapids and Louisa, Iowa, including Marion, Iowa.
   - B. In Sioux City, Iowa, from Pearl Street west approximately 1.5 miles to Tri-View Industrial area, and from Court Street to Virginia Street.
3. Seattle and North Coast Railroad Company (SNC):
   - A. Between Port Angeles and Port Townsend, Washington, including Pier 27 and associated track in Seattle, Washington.
4. Cedar Rapids and Iowa City Railway Company (CIC):
   - A. Between Middle Amana and Cedar Rapids, Iowa.
   - B. Over the Chicago, Rock Island and Pacific Railroad Company trackage—4th Street Corridor—in Cedar Rapids, Iowa, originally operated by MILW under trackage rights.
   - C. Over certain terminal and industry tracks in Cedar Rapids, Iowa, between milepost 86 and milepost 87 in order to serve the 6th Street Power Station.
5. Escanaba and Lake Superior Railroad Company (ELS):
   - A. Between Iron Mountain, Michigan, and Green Bay, Wisconsin.
6. Consolidated Rail Corporation (CR):
   - A. At Momence, Illinois.
7. Des Moines Union Railway Company (DMU):
   - A. Between Des Moines (milepost 0) and Clive (milepost 8.5), Iowa; and between Clive (milepost 0) and Grimes, Iowa, (milepost 7), a total of 15.5 miles.
8. The La Salle and Bureau County Railroad Company (LSBC):
   - A. From Mendota, Illinois, (milepost 69.5) to Ladd, Illinois, (milepost 82.1), a total of 12.6 miles.
9. Chicago, Madison and Northern Railway Company (CMN):
   - A. Between Sparta, Wisconsin, (milepost 2.5) and Viroqua, Wisconsin, (milepost 34.7), a distance of approximately 32.2 miles.
   - B. Between Janesville, Wisconsin, (milepost 10.0) and Mineral Point, Wisconsin, (milepost 90.7), a distance of approximately 80.7 miles.
10. Wisconsin Central Railroad Company (WCRC):
    - A. Between Waukesha, Wisconsin, (milepost 20.5) and Milton Junction, Wisconsin, (milepost 61.5), a distance of approximately 41.0 miles.
11. Pend Oreille Valley Railroad, Inc., (POV):
    - A. Between Newport, Washington, (milepost 43.6) and Metaline Falls, Washington, (milepost 104.7), a distance of approximately 61.1 miles.
12. St. Maries River Railroad Company (SMRR):
    - A. Between St. Maries and Bovill, Idaho, the Bovill Branch, a distance of approximately 52 miles; and between St. Maries and Plummer, Idaho, a distance of approximately 19 miles.
13. Chippewa River Railroad Company (CRRC):
    - A. Between Eau Claire, Wisconsin, and Durand, Wisconsin, a distance of approximately 33 miles.
14. Wisconsin and Southern Railroad Company (WSR):
    - A. The following lines in the state of Wisconsin:
      - (1) North Milwaukee (milepost 93.72) to Oshkosh (milepost 187.64).
      - (2) Horicon (milepost 140.27) to Cambia (milepost 165.7)
      - (3) Granville (milepost 100.5) to Menomonee Falls (milepost 104).
      - (4) Iron Ridge (milepost 133) to Mayville (milepost 140).
      - (5) Beaver Dam Junction (milepost 148.5) to Beaver Dam (milepost 150.5).
      - (6) Fox Lake Junction (milepost 154.5) to Fox Lake (milepost 156.7).
      - (7) Brandon (milepost 161.15) to Markesan (milepost 172.7).

*Added.

[FR Doc. 80-21768 Filed 7-18-80; 8:45 am]
BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1477]

Indian Creek Railroad Co. Authorized To Operate Over Tracks Leased From the Penn Central Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1477.

SUMMARY: This order authorizes the Indian Creek Railroad Company to operate over tracks formerly operated by ConRail and leased by the State of Indiana until June 30, 1980. A shipper, Rydman and Fox, Inc., has leased the track segment between Anderson and Frankton, Indiana, in order to provide for continued rail service.

EFFECTIVE DATE: 12:01 a.m., July 20, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

Decided: July 15, 1980.

The Public Service Commission of Indiana has amended its lease agreements with the Penn Central Corporation for USRA line 523, between milepost 127.02 and 131.57, effective June 30, 1980. This line was subsequently leased by Rydman and Fox, Inc., and has been made available for use by the Indian Creek Railroad Company.

The Indian Creek Railroad Company is willing to operate the line between Anderson (milepost 127.02) and Frankton (milepost 131.57) all in the State of Indiana.

An application seeking permanent authority to operate as the designated operator of this line has been filed by Indian Creek Railroad Company. If service over this line is not restored, numerous shippers on this line will not have needed rail service.

It is the opinion of the Commission that an emergency exists requiring the immediate resumption of operations over this line in the interest of the public; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1477 Service Order 1477.

(a) *Indian Creek Railroad Company Authorized to operate over tracks leased from Penn Central Corporation.* Indian Creek Railroad Company is authorized to operate over tracks leased from Penn Central Corporation between Anderson, Indiana (milepost 127.02) and Frankton, Indiana (milepost 131.57), approximately 4.55 miles.

(b) Application. The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of the application of Indian Creek Railroad Company seeking authority to operate over these tracks.

(d) *Effective date.* This order shall become effective at 12:01 a.m., July 20, 1980.

(e) *Expiration.* The provisions of this order shall remain in effect until 11:59 p.m., September 30, 1980, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21754 Filed 7-18-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna; Final Regulations; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Corrections and Amendment to final regulations.

SUMMARY: This action corrects certain editorial errors in the final regulations published June 13, 1980 (45 FR 40118). It also contains an Amendment to the existing regulations which clarifies the process of making vessel allocations for purse seine vessels.

EFFECTIVE DATE: These regulations are effective July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, Telephone: (617) 281–3600.

SUPPLEMENTARY INFORMATION: Several editorial oversights were discovered in the June 13, 1980 publication of the final regulations for the U.S. Atlantic bluefin tuna fishery. This publication corrects those errors. The corrections to §§ 285.32(b) (c) and (d)(2) are for clarity. The original version did not adequately explain how the variable catch rate for giant bluefin tuna taken by handgear in the northern area (north and east of Gay Head Light) will operate. Also, it was not clear that the limits for angling in the southern area (south and west of Gay Head Light) applied to individuals, not vessels.

Amendment to § 285.32(a)(4)

The allocation system established by the final regulations reserved 14 percent of the purse seine quota of giant bluefin tuna for new entrants to the fishery. The purpose of this allocation was to allow new entrants to participate in the fishery, while historical participants would be allocated a portion of the remaining 86 percent based on various factors outlined in the regulations. The intent of the allocation system was to recognize the past efforts of historical participants. One situation was overlooked when the regulations were promulgated. Under the present regulations, if there is only one applicant in the new entrant category, the new entrant will receive a greater allocation than a historical participant. Facts which have come to light after publication of the final regulations indicate that this will occur unless the regulations are amended to provide for the clear intent of the allocation system. The season for catching giant bluefin tuna will begin on August 15, and participants must be notified of their allocations as soon as possible to plan their fishing operations. Therefore, to correct the oversight in the final regulations and to conform the regulations to their original intent, this publication amends § 285.32(a)(4) to limit any new entrant (in either the school or giant fishery) to an allocation equal to the least amount of fish allocated to a historical participant. The need for prompt action, combined with this minor adjustment to the allocation system, led the NMFS to conclude that the opportunity for notice and comment is impracticable, unnecessary, and contrary to the public interest. For the same reasons this amendment will become effective on July 21, 1980.

The Assistant Administrator for Fisheries has determined that this is an action within the scope of a major action previously described in an Environmental Impact Statement (EIS), which does not alter the context or intensity of the previously described impacts. Therefore, pursuant to NOAA Directive 02–10, Section 6(c), no EIS has been prepared under the National Environmental Policy Act of 1969.

The Assistant Administrator has also determined that these regulatory changes do not substantially or materially alter the final regulations published on June 13, 1980. A Regulatory Analysis was prepared for the final regulations. Therefore, pursuant to NOAA Directive 21–24, no Regulatory Analysis has been prepared under E.O. 12044 for this action.

Signed at Washington, D.C., this 14th day of July 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

(16 U.S.C. 971 *et seq.*)

The regulations governing fishing for Atlantic bluefin tuna (50 CFR Part 285) are amended as follows:

§ 285.32 [Amended]

1. 50 CFR 285.32(b)(1) is revised to read:

* * * * *

(b) * * *

(1) Vessels fishing for, catching or taking giant Atlantic bluefin tuna, which are registered in the general category under § 285.21(b)(1), may only catch one giant bluefin tuna per day per vessel. On or about August 7, the Assistant Administrator shall review dealer and buy-boat reports to determine the total catch of giant bluefin tuna. If the Assistant Administrator determines that 30 percent or more of the quota of giant bluefin tuna is caught, the allowable catch shall be continued at one giant bluefin tuna per day per vessel; if the Assistant Administrator determines that 17 or more percent and less than 30 percent of the quota has been caught, the allowable catch shall be increased to two giant bluefin tuna per day per vessel; if less than 17 percent has been caught the allowable catch shall be increased to three giant tuna per day per vessel. On or about September 7, the Assistant Administrator shall review

dealer and buy-boat reports to determine the total catch of giant bluefin tuna. If the Assistant Administrator determines that 85 percent or more of the quota of giant bluefin is caught, an allowable catch of one giant bluefin tuna per day per vessel shall be continued or reestablished. If the Assistant Administrator determines that 70 or more percent and less than 85 percent of the quota has been caught, the allowable catch shall be set at two giant bluefin tuna per day per vessel. If more than 60 and less than 70 percent of the quota has been caught, the allowable catch shall be set at three giant tuna per day per vessel. If the Assistant Administrator determines that 60 percent or less of the quota has been caught, the allowable catch shall be increased to four giant tuna per day per vessel. The Assistant Administrator shall publish a notice in the **Federal Register** of any determinations and increases in allowable catch made pursuant to this paragraph.

* * * * *

2. 50 CFR 285.32(d)(2) is revised to read as follows:

* * * * *

(d) * * *

(2) *Young school, school, and medium tuna.* Persons angling for young school, school, or medium Atlantic bluefin tuna in the regulatory area may take no more than four young school, school, or medium Atlantic bluefin tuna each day at any time during the year: *Provided,* That only one of the four may be a medium Atlantic bluefin tuna.

* * * * *

3. 50 CFR 285.32(a)(4) is revised to read as follows:

* * * * *

(a) * * *

(4) New entrants to the purse seine fishery applying for an allocation of school or giant tuna shall receive this allocation from the 14 percent of the quota based upon the number of new entrants applying. All new entrants shall receive equal allocations. However, no new entrant will receive an allocation in excess of the least amount issued to a historical participant under the provisions of § 285.32(a)(2). In the event that no new entrants apply, the total 14 percent of the quota which would otherwise be available to new entrants shall be divided among the historical participants applying for that size class tuna according to the formula set forth in paragraph (a)(3) of this section. In the event that the Regional Director cannot allocate the total 14 percent of the quota to new entrants, any such remaining portion shall be divided equally among all participants.

* * * * *

[FR Doc. 80-21366 Filed 7-18-80; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 141
Monday, July 21, 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 1007

[Docket No. AO-366-A16]

Milk in the Georgia Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: proposed rule.

SUMMARY: This decision replaces the order's current Class I base plan with a seasonal base-excess plan for distributing to producers their returns from the sale of milk. As provided, producers each year would establish a new base determined by their deliveries of milk under the order during the base-forming months of September-January. A separate base would be computed for each farm operated by a producer. Producers would be paid not less than the uniform price for their milk deliveries in each such month. During the other months, minimum payments to producers would be based on the amounts of base and excess milk marketed under the order. A producer's base could be transferred only if the producer discontinues milk production.

The decision also finds that marketing conditions do not warrant emergency action to either suspend or amend the Class I base plan transfer provisions to permit only within-family transfers.

The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-5443.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued February 21, 1980; published February 27, 1980 (45 FR 12821).

Recommended Decision: Issued June 11, 1980; published June 16, 1980, (45 FR 40606).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Georgia marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Decatur, Georgia on March 12, 1980, pursuant to notice thereof issued on February 21, 1980 (45 FR 12821).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on June 11, 1980 filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

Under Issue 2, two new paragraphs are inserted after paragraph 15.

The material issues on the record of the hearing relate to:

1. Class I base plan transfer provisions.

2. Replacing the Class I base plan with a seasonal base-excess plan.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Class I base plan transfer provisions.* The Class I base plan should not be amended to allow only intra-family transfers of Class I base. Moreover, on the basis of this record there is no urgent need to temporarily restrict base transfers to intra-family situations by suspension action.

Dairymen, Inc. (DI), a dairy cooperative that represented 730 of the 1182[1] producers supplying milk for the Georgia market at the time of the hearing, proposed that the Class I base plan be amended on an emergency basis to permit only intra-family transfers of Class I base and production history base. Alternatively, DI proposed that certain base transfer provisions be suspended on an emergency basis.

At the hearing, DI testified that transfers of Class I base have become more numerous during the past year. A witness for the cooperative stated that the recent increase in base transfers and certain practices involved in some transfers have caused serious marketing problems. For example, he indicated that in certain instances producers have discontinued their shipments to the Georgia market and sold their Class I bases for windfall profits. In many such cases, the producers who sold their Georgia bases began delivering milk to another market.

He also stated that transfers of base have been used in "special member programs" to get producers to join a particular cooperative association. According to the witness, cooperatives (including DI) would arrange for the transfer of base to a certain dairy farmer as an inducement for such producer to join the association. If the producer remained a member for one year and then dropped out of the association, the producer would retain one-third of the base that was initially received. If the producer remain a member for two years, two-thirds of the base would be retained. The producer would retain all the base initially received by remaining a member of the cooperative for three years.

The cooperative's witness further testified that because Class I base may so easily be established, substantially more base has been formed than is actually needed to supply the market's fluid milk needs. He maintained that this has caused the Class I base percentage to decline. Each eligible producer thus receives a Class I base smaller than it otherwise would have been. The end result for producers is, of course, a lower total return for milk marketed under the order. DI contended that these effects that result from certain activities are contrary to the intended purposes of the Federal order program generally, and the Class I base plan specifically.

DI expressed the view that such activities are disruptive and improper, and therefore must be stopped immediately. For this reason, DI asked

[1] Official Notice is taken of the May 1980 Market Information Bulletin published by the market administator for the Georgia marketing area.

that the Secretary take action on an emergency basis either to amend the Class I base transfer provisions or to suspend certain of those provisions.

Southern Milk Sales, Inc., a cooperative association representing about 60 dairy farmers supplying the Georgia market, opposed DI's request for emergency action with respect to the transfer provisions of the Class I base plan. At the hearing, the cooperative's spokesman took the position that emergency conditions relating to this issue do not exist in the Georgia market. He testified that amendment or suspension of the base transfer rules, as proposed by DI, would cause marketing problems for his organization.

The hearing record does not provide a sufficient basis to conclude that emergency marketing conditions exist in the Georgia market. First, the record clearly indicates that many of these activities have been going on in the market for quite some time. Bases have been transferred each year since the Class I base plan became effective. While the situation may have been aggravated by an increase in the number of transfers in the past year, the record does not demonstrate adequately that these tranfer activities have been disruptive to such an extent that emergency action must be taken immediately.

In updating Class I bases on March 1, 1976, Class I bases equalled 107 percent of production history bases. It should be noted that Class I bases have represented a lower percentage of production history bases each March 1 since 1976, declining an average of 4.8 percentage points each year, until on March 1, 1980, Class I bases equalled only 88 percent of production history bases. These figures clearly show a steady rate of change rather than a dramatic sudden change in marketing conditions in the past few months that would warrant emergency action.

Furthermore, based on the record testimony, it appears likely that most of the transfers of Class I bases already have been made that are going to be made by September 1, 1980, which is the target date for putting the seasonal base-excess plan into effect. Until such time, it is expected that Class I bases would rapidly decline in value since producer returns after September 1, 1980, would not be based on the uniform prices for Class I base and excess milk. In view of the foregoing, there is no basis for either the emergency suspension of the Class I base transfer provisions or an emergency amendment of such provisions.

Any consideration of amending the Class I base plan through the regular amendment procedures becomes almost moot in view of the timing involved. Since this decision would soon replace the Class I base plan with a seasonal base-excess plan, little purpose would be served by amending the Class I base plan provisions when the entire base plan would be eliminated shortly thereafter. Accordingly, no action is taken with respect to the proposed changes in the Class I base plan.

2. *Replacing the Class I base plan with a seasonal base-excess plan.* The order should be amended to provide a seasonal base-excess plan in place of the current Class I base plan.

The purpose of a base-excess plan is to provide an incentive for producers to even out their production throughout the year. Such a plan is designed to encourage production in the months of seasonally low production and discourage excess production in the months of seasonally high production.

DI proposed that the order's current Class I base plan be replaced with a seasonal base-excess plan for use in distributing to producers their returns from the sale of milk. The DI witness testified that the present Class I base plan and a predecessor 12-month base-excess plan have favorably influenced seasonal milk production patterns in Georgia by encouraging more milk to be produced when fluid milk sales are high and by discouraging excess milk production during the high production season. They also stated that adoption of the base-excess plan, which would provide more limited transfers of base than are currently provided under the Class I base plan, would eliminate the base transfer problems experienced in the market in connection with the Class I base plan during the past year.

Atlanta Dairies, a cooperative representing about 145 producers supplying the market, supported the changes proposed by DI and essentially for the same reason, i.e., to maintain the market's favorable seasonal production pattern.

There was only limited opposition to the proposed base-excess plan. Southern Milk Sales opposed the plan primarily because transfers of base would be considerably more limited than they presently are under the Class I base plan. The association's spokesman testified that base transfers provide an orderly alternative to base building in that new producers can obtain base quickly and established producers are able to adjust the scale of their operations. The witness stated that the association prefers that the order not include any kind of base plan, but that if a base plan is included, the present Class I base plan would be preferable to DI's proposed base-excess plan.

A base-excess plan should be included for the Georgia market. The base plan will provide a means of encouraging a level seasonal production pattern so that a good seasonal coordination between milk supplies and Class I sales will be maintained.

The Georgia market has developed a good seasonal milk production pattern over the years. Nevertheless, milk production for the Georgia market does fluctuate seasonally with supplies generally increasing in the spring and declining in the fall. This is evidenced, for example, by the production and Class I producer milk data for a recent 5-year period. These data indicate that the 1975–79 average daily deliveries of producer milk in April were 108 percent of such deliveries for the entire 5-year period. Downswings of comparable magnitude occurred each year, with the 5-year average of daily producer milk deliveries during August dropping to 90 percent of the daily average of such deliveries for the entire 5-year period.

Although the seasonal fluctuations in production are relatively small the changes are more meaningful when viewed in terms of the somewhat opposite swings in Class I producer milk. When supplies were lower in the fall, average daily producer milk allocated in Class I was higher. For instance, the 1975–79 average daily producer milk receipts used in Class I during November was 107 percent of the average for the entire 5-year period. This compares to a 5-year average of Class I utilization of producer milk during July which is 89 percent of the average for the entire 5-year period.

Although some seasonal fluctuation is evident, production for the Georgia market is in fairly good seasonal balance with Class I use. On the basis of 5-year averages computed for each month, the relationship of average daily producer milk to daily average Class I producer milk ranged from a low of 114 percent in September to a high of 138 percent in June.

If milk production fluctuates widely on a seasonal basis, serious marketing problems could be created for producers, and especially for cooperatives supplying the market. These problems are centered on obtaining adequate supplies of milk for handlers' fluid needs during the fall and disposing of excess supplies during the spring.

For example, if production declines too much in the fall, the cooperative could find it necessary to import milk from beyond the local supply area to meet the shortage of the market's fluid

processors. This could involve moving milk considerable distances and such movements are more costly each day as gasoline prices continue to increase.

Another aspect of seasonal imbalances in milk production is the disposition of milk that is excess to the market's fluid needs. Since the Georgia market produces relatively little milk in excess of fluid needs, there is only limited manufacturing capacity in the market. Hence, at times excess milk must be transported to manufacturing plants at considerable distance from the major consumption areas of the state. The costs of such transportation are borne primarily by cooperatives. Hence, producers, handlers and consumers would benefit from a low variation in milk production because of the reduced marketing costs of excess milk associated with the fluid market. In view of the foregoing, adoption of a base-excess plan for the Georgia market is appropriate in the interest of maintaining reasonably level production throughout the year.

The issue in this proceeding primarily concerns producers in that it deals with how the pool funds are to be divided among the producers supplying the market. In such case, the views of producers are an important consideration. The record in this proceeding clearly shows that a majority of producers prefer a base-excess plan to the current Class I base plan as a means of influencing the seasonality of milk production.

The base-excess plan adopted in this decision is very similar to that proposed by producers. Each producer would be assigned a base computed by dividing the producer's total pounds of producer milk in September through January (the base-forming period) by the number of days' production represented in such producer milk deliveries or by 145, whichever is more. A single delivery by a producer on every-other-day delivery would be considered two days' production in computing a base. This method of computing bases is identical to that now used under the Class I base plan to establish each producer's average daily milk delivery (used to compute the producer's production history base from which such dairy farmer's Class I base is calculated).

The market administrator each year would compute a new base for each producer and, by March 1, would notify each producer and the handler receiving the milk of the producer's base. The market administrator would also notify a cooperative, if requested, of the amount of base assigned to each producer-member.

In its exceptions, D.I. requested that the order provide for the computation of a separate base for each dairy farm operated by a producer. The cooperative noted that under the current Class I base plan a production history base is computed for each farm. It pointed out that under the base transfer provisions adopted in the recommended decision, a producer who operated two or more farms could not transfer any base unless production were discontinued on all such farms.

It is reasonable to expect that a producer who is operating two or three dairy farms may wish to sell the base that was associated with the milk production of an individual farm if he sells that farm. Establishing a separate base for each farm would accommodate this situation. Accordingly, the language in § 1007.92(a) has been revised to make it clear that a separate computation of base shall be made for each farm operated by a producer.

As proposed by DI, the months of September through January should be the base-forming period. It is during these months that milk production tends to be lowest relative to the market's Class I needs. In order to establish a production level for which they will receive payment at the higher uniform price for base milk in the base-paying months, producers will tend to establish a higher level of production in the base-forming months. The uniform (weighted average) price would be the minimum order price payable to producers for producer milk delivered during September through January.

The base-paying months should be February through August, as proposed by DI. These months form a period when, generally speaking, milk production is high and Class I utilization of milk is low. Thus, it is a period when the base plan should be discouraging excessive seasonal production. This would occur because during the base-paying months, payments to producers would reflect a lower price for any excess producer milk delivered to the market. Thus, the operation of the base-excess plan should serve to maintain, or perhaps improve, the seasonal production pattern that producers desire.

"Base milk" would be the producer milk of a producer in each month of February through August that is not in excess of the producer's base multiplied by the number of days in the month. "Excess milk" would be the producer milk of a producer in each month of February through August in excess of the producer's base milk for the month. Excess milk would include all of the producer milk in February through August of a producer who has no base.

In computing the uniform prices for base and excess milk, Class III producer milk would be assigned to excess milk first. If there are more pounds of Class III producer milk in the market than there are pounds of excess milk deliveries by producers, the uniform price for excess milk will be the Class III price. In such case, the additional value for the remaining Class III producer milk as well as the values for Class I and Class II producer milk will be reflected in the uniform price for base milk.

As proposed by producers, the uniform price for excess milk should not be subject to a location adjustment. This will continue the practice now provided under the Class I base plan for pricing excess milk.

A producer generally would deliver milk continuously throughout the base-forming period. However, because of various circumstances (e.g., storm damage at the farm or to roads, temporary suspension of a health permit or temporary loss of market when cut off by a buying handler), a producer may be off the market for a limited number of days in the base-forming period. In recognition of this, proponent cooperative proposed the same treatment that is now provided under the Class I base plan. That is, a producer who delivered at least 145 days' production during the base-forming period would have his average daily delivery computed on the same basis as a producer who delivered continuously throughout the entire period (by dividing his total producer milk during the five-month period by the number of days' production represented in such producer's deliveries).

The requirement that a producer supply the market in the base-forming months in order to earn a base provides an incentive to ship to the Georgia market instead of to other markets in the months when production is lowest relative to the demand for Class I milk. A producer who ships at least 145 days' production during the five-month base-forming period can reasonably be considered as being fully associated with the market. A producer who delivered less than 145 days' production should have his base determined by dividing his total production in the base-forming period by 145. Thus, a producer who may have been supplying the Class I needs of another market for a substantial part of the base-forming period would receive a base that reflects his contribution as a producer toward supplying the fluid needs of the Georgia market in such period.

The application of the base-excess plan adopted herein to new producers is essentially that proposed by DI. One type of new producers coming onto the market in the base-paying period would be dairy farmers who had supplied the fluid milk needs of another order market or an unregulated market in the base-forming period. Milk produced on their farms in the base-paying months that becomes associated with the Georgia market would represent production that is surplus to the Class I needs of the market with which they had been previously associated. It is appropriate, therefore, as provided herein, that for deliveries of such milk under the Georgia order in the base-paying months, producers should receive only the excess milk price.

In other instances, persons who have not previously supplied a Class I market may become new producers on the Georgia market. Included in this category would be dairy farmers who had previously been shipping manufacturing grade milk and persons starting new dairy farm operations. Before coming onto the market as a new producer, such a person would be expected to have anticipated in advance whether he would begin shipping in a base-paying month or in any of the other five months of the year. If the choice is to begin delivering as a new producer in one of the seven base-paying months, presumably that decision would be made in recognition of the fact that the excess price would be received for milk delivered to the market in those months.

If a dairy farmer's milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period, a base should be assigned to such person in the same manner as if the dairy farmer had been a producer during the entire base-forming period. Such base would be calculated from all of the dairy farmer's deliveries to such plant during September through January.

The order provision to cover the situation described in the preceding paragraph is modified somewhat from what DI proposed. The provision adopted herein clearly specifies which base-forming period would be used if a nonpool plant became a pool plant during the base-forming period and, in such cases, specifically identifies which producer deliveries would count toward establishing a base for such dairy farmer.

To acquire pool status under the order a plant must dispose of a certain percentage of its receipts on routes in the marketing area or to other pool plants. Hence, when a nonpool plant becomes a pool plant it will add Class I sales to the pool relative to such sales in prior periods when it was a nonpool plant. It is appropriate, therefore, that those dairy farmers who had been supplying the plant have bases computed for them according to their deliveries to the plant in the base-forming period.

Bases so assigned to such producers should not be transferable. Such producers would be receiving bases without having incurred any of the production costs that the market's regular producers incurred in adjusting their operations to achieve more level production. Thus, any income received from the transfer of such bases in essence would be windfall gains, which should not be permitted.

DI proposed separate provisions to deal with establishing a base for a dairy farmer who held producer-handler status in the event such person's plant became a fully regulated pool plant. A producer-handler plant is defined as a nonpool plant under the Georgia order. Since the provisions described in the four immediately preceding paragraphs apply to any nonpool plant that becomes a pool plant, including a producer-handler plant, separate provisions to accommodate producer-handlers are not needed.

The base earned by any producer who supplied the market during the preceding base-forming period should be transferable if the producer discontinues producing milk. This procedure will facilitate the transfer of assets when a dairy farmer goes out of business, and will allow other producers to acquire the base. For example, if a producer sells his herd to another person, the latter person should have an opportunity to acquire the base associated with the herd.

However, under the provision adopted herein, it is not necessary to require that only an entire base may be transferred as DI proposed. Presumably, when a producer goes out of the milk producing business, the producer would try to dispose of all of the base held at that time. If the cows were sold to another dairy farmer, or to a new producer, such producer presumably would want to obtain the established base or portions of it. However, if only a portion of the base could be disposed of there would not be any negative effect on the market. Thus, it seems a reasonable approach to allow a producer who quits producing milk to dispose of the base to other producers, in minimum increments of 100 pounds. If all the base cannot be disposed of within the month that production ceases, the remainder may be disposed of at any time during the remaining base-paying period. No further safeguards are needed. Under the provision adopted, if DI's proposed constraint on transferring only an entire base were adopted, it is conceivable that a producer who sold all the cows could not find buyers for the entire base, and thus could not sell any of the base. There is no reason for the order to be that restrictive under the transfer provisions herein adopted.

The DI proposal did not specifically state that a base could be transferred only if the dairy farmer discontinues producing milk. Rather, the cooperative proposed that a base transfer be cancelled if the producer who transferred base begins delivery of milk to a plant other than a pool plant under this order. However, at the hearing DI testified that the cooperative intended that a producer be permitted to transfer his base only if he goes out of milk production.

The verification problems associated with administering the proposed provision could be significant. It would be necessary, for example, for the market administrator to make a determination that the producer was in fact shipping milk to another market. The follow-up activities necessary to make such determinations could involve considerable time and effort. Individual producer names would have to be checked between Federal order markets to identify producers who transfer their bases and begin delivering to other Federal order markets. Also, under current operating procedures, it would be difficult to identify producers who transferred their Georgia bases and began delivering their milk to unregulated plants.

In addition to the administrative problems, such a provision could have an adverse impact on producers who received bases by transfer and are currently supplying the Georgia market. For example, assume that a producer buys base from a dairy farmer with the understanding that the base seller is going to quit producing milk. Under the proposed provision, if the seller later changed his mind and began delivering milk to another market, it would create an adverse economic hardship on the producer who bought the base since the transfer would be cancelled. It would be inappropriate for the order provisions to penalize one dairy farmer for the actions of another. Under the base-excess plan adopted herein, producers would be permitted to transfer only if they discontinue milk production; thus, the intent of DI's proposal would be accomplished.

The proposed order provisions did not specify that base may be transferred only to a producer. However, under the base plan provisions adopted herein,

only a producer may establish base, and only producer milk would be base milk. Also, since base may be established only by a producer, then only the producer may transfer such base. Moreover, there was no testimony to indicate an intent that any person other than a producer should be permitted to hold base. In view of the foregoing, the order should provide that base may be transferred only to another producer.

As proposed, base transfers (except intra-family transfers under certain conditions) would become effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application would be required to be on a form approved by the market administrator and signed by the baseholder or the heirs and the person or persons to whom the base is transferred. Also, although DI proposed that the application be signed only by the producer transferring the base, the order should require the signature of the person or persons receiving the base. This will clearly establish that both parties are requesting the transfer.

If a base is held jointly, the base transfer application must be signed by all joint holders or their heirs. The DI proposal did not cover this point specifically; nevetheless, the order should provide guidance with respect to requests for a bona fide transfer in such cases.

At the hearing, DI modified its original proposal with respect to the effective date of intra-family transfers by proposing that such transfers may be effective on any day of the month if the transfer application is properly completed and filed with the market administrator within five days after the effective date of the transfer. DI testified that numerous transfers of base are made because of changes in family ownership. Since this modification would expedite the settling of estates and would accommodate the many changes in family ownership, it should be adopted as proposed.

As DI proposed, the base established by a partnership should be divisible between the partners on any basis agreed on in writing by them if a written request setting forth the agreed-upon division, signed by each partner, is received by the market administrator prior to the first day of the month in which the division is to be effective. This would facilitate the division of the assets of a partership that is dissolved during the base-paying period. On the other hand, it would not affect the total quantity of base milk in the pool. Also, two or more producers with established bases who form a partnership may combine their bases by notifying the market administrator prior to the first day of the month in which the combined base is to be effective. This provision, in effect, will allow the individual producers to transfer their respective bases to the partnership, so that milk produced by the partnership may be pooled as base and excess milk.

The base-excess plan adopted herein, which would be applicable to all producers, would benefit consumers, processors, and producers by encouraging a seasonally desirable level of milk production. Absent the proposed plan, a cooperative association base plan operated outside the order could not be expected to equitably achieve the intended purpose of a base-excess plan in the order. For example, a plan applicable only to DI producers would have the effect of enabling the significant number of other producers on the market to produce milk under conditions that are conducive to more spring production and less fall production. The base-excess plan provided herein will tend to insure that excess production on the part of some producers (whether cooperative members or nonmembers) would not affect adversely the returns to all producers on the market. Such a plan will be equitable to all producers in providing each of them an incentive to maintain a seasonal pattern of production commensurate with the needs of the market.

In its brief, Southern Milk Sales reiterated their overall position taken at the hearing that adoption of a base-excess plan will not serve the interests of individual producers as effectively as the present Class I base plan. As indicated earlier in this decision, the cooperative's objection focused primarily on the limitations on transfers of base. However, producers who requested that the Class I base plan be replaced with a seasonal base-excess plan contended that new producers have been able to establish bases too easily and that the transfer provisions have been abused.

It is not clear from the record that the transfer activities cited by proponents necessarily are disrupting orderly marketing conditions. However, the record indicates that some of the practices noted go beyond a simple base transfer between a producer who wants to market more base milk, and another producer who has been available. More important, however, is the fact that there was not a broad basis of opposition at the hearing to the limited transfer provisions that were proposed. In view of the foregoing, it is appropriate that the base-excess plan accommodate the wishes of a majority of the producers by providing for base transfers only when a production unit goes out of business.

A representative of the Kroger Company testified about a problem his company will experience under the base plan in connection with its new plant that is under construction at Murfreesboro, Tennessee. He estimated that the new plant will begin operations during the latter part of 1981. Based on Kroger's current sales in Georgia from other plants and projected sales from its new plant, the handler anticipates that its Murfreesboro plant will be a pool plant under this order since a greater volume of such plant's Class I sales will be disposed of in the Georgia marketing area than in any other federally regulated area.

Most of Kroger's Class I sales in Georgia and Tennessee are packaged and distributed from the Kroger bottling plant at Indianapolis, Indiana, which is regulated under Federal Order No. 49 and from its bottling plant at Hazelwood, Missouri, which is regulated under Federal Order No. 62. These sales eventually will be supplied from the new plant at Murfreesboro. Because of the distances involved, it is not likely that producers who supply the Missouri and Indiana plants would follow the Class I sales and deliver their milk to the new Murfreesboro plant. Similarly, it is not likely that Georgia base-holding producers would deliver their milk north to Tennessee.

The base-excess plan, as proposed by DI, would not provide bases for producers who deliver their milk to a new plant. Since the milk for the Murfreesboro plant would likely come from dairy farmers located mostly in Tennessee and Kentucky, many of the producers supplying the plant presumably would not have Georgia bases. In such case, Kroger would be obligated to the Georgia pool at the Class I price for its Class I sales and receive credit through the pool at only the uniform price for excess milk to pay its producers. Kroger considered this to be inequitable.

In its brief, Kroger suggested that the Secretary explore every possible alternative to provide fair and equitable treatment to Kroger and the producers supplying its new plant. No formal proposal was included in the notice of hearing; however, DI recognized the concern Kroger expressed at the hearing and suggested that the base plan include a provision to provide bases for producers who deliver their milk to a newly constructed distributing plant

which became a pool plant under the Georgia order.

In their briefs, both Kroger and DI suggested that bases be assigned to producers who deliver their milk to a new plant that became a pool plant prior to a specified cutoff date. Although both parties wanted to accommodate this particular situation, both suggestred a temporary amendment which would expire as of a certain date. Since it is impossible to accurately predict at this time when the new Kroger plant will begin bottling milk, it is not practical to specify a definite cutoff date in the order.

The provision adopted would provide a four-month period after the new plant begins bottling milk during which the handler may add new producers and get full bases for such dairy farmers. Such timing will allow the handler an opportunity to attain a desirable production level. It should accommodate Kroger since the handler testified that it generally takes about two or three months for a new plant to reach a reasonable production level. Since the order would provide a four-month limit on any such new plant, there is no need to specify a cutoff date. This procedure will provide the flexibility to meet a similar situation that might arise in the future, as well as accommodate Kroger's problem.

Moreover, in the event the new plant first became pooled under another order and then shifted to regulation under the Georgia order, the provision adopted herein would apply if the status change occurred within the four-month period provided. In such cases, the order provision that normally applies when a nonpool plant becomes a pool plant does not recognize the build-up time for bringing a new operation up to capacity, and it should not be applicable to the situation being discussed here.

If a dairy farmer's milk was delivered to a newly constructed plant that became a pool plant after the beginning of the base-forming period, a base should be assigned to such person in the same manner as if the dairy farmer had been a producer during such entire base-forming period.

The provision should not apply to a new plant which is built to replace another plant. A determination about whether a new plant is a replacement plant would be made by the market administrator, who would have access to information necessary to make the determination.

As suggested by DI in its brief, for the same reasons set forth earlier in this decision with respect to bases assigned to producers who delivered their milk to a nonpool plant that became a pool plant, bases assigned to producers who delivered their milk to a plant that has just been built and became a pool plant should not be transferable.

DI proposed that a producer must forfeit the base assigned to such dairy farmer if such person wants to change status under the order and become a producer-handler. Similar treatment is afforded such persons under the present Class I base plan. However, since transfers may take place only when a producer discontinues milk production, it is not necessary to provide such a requirement for producer-handler status under the base-excess plan adopted herein.

As proposed by DI handlers should not be required to report the number of days that milk was received from each producer. This number is used to compute a producer's monthly base under the present Class I base plan, i.e., a producer's daily base is multiplied by the number of days a producer delivers producer milk during the month. In computing base milk for each producer under the base-excess plan provided herein, a producer's base is multiplied by the number of days in the month. Hence, there is no need for handlers to report the number of days they received producer milk from each producer.

In connection with replacing the order's Class I base plan with a seasonal base-excess plan, certain conforming changes need to be made.

A paragraph in the order concerning the computation of handler's pool obligation is obsolete and should be deleted, as proposed by DI. The paragraph was only effective in the first month that the order changed from 2 classes of utilization to 3 classes. Since the effect of these provisions has expired, the outmoded language should be removed from the order.

Another change proposed by DI should be made in the reporting section of the order. Under the present order provisions, each handler is required to report on or before the 7th day of each month the total pounds of base and excess milk received from each producer during the month. Since producers would be paid for their base and excess milk deliveries only during the months of February-August under the base-excess plan provided herein, handlers would be required to report by the same date the total amount of base milk received from all producers only during these months. On or before the 20th day of each such month handlers would be required to report the total amount of base milk received from each producer.

The current order provides that a producer's partial payment may be reduced by proper deductions authorized in writing by such producer. The order also specifies that a producer's final payment may be reduced by proper deductions authorized by the producer. There is no requirement, however, that the authorization be written in the latter case. A single written authorization should be adequate to cover both the partial and the final payments to a producer. The order is revised accordingly to reflect this.

In connection with the revisions in the computation of the uniform price, DI proposed certain corollary changes in other sections of the order. Since producers are paid for their base and excess milk deliveries each month under the Class I base plan and would be paid on this basis for only seven months under the seasonal base plan provided herein, the section dealing with the announcement of the applicable uniform prices is revised appropriately. For the same reason, the section concerning payments to producers and cooperatives is revised to reflect this change.

During the months of September through January the weighted average price and the uniform price are the same. In the other months, uniform prices for base milk and excess milk are computed and used to pay producers for their milk deliveries. In addition, to such uniform prices, a weighted average price is computed for each such month. Absent a base-excess plan, the weighted average price would be the uniform price in all months. Thus, it should be used to compute handler obligations on specified receipts of other source milk each month. Likewise, in computing the obligations of partially regulated distributing plants each month, the weighted average price should be used. The order is appropriately amended to provide these changes.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, two exceptions were received and considered in conjunction with the record evidence. One was adopted, as discussed earlier under Issue 2.

The other exception opposed the proposed amendments set forth in the recommended decision. The exceptor, a dairy farmer, claimed that the amendments would cause large financial losses to all dairymen and would put the milk producer at a "disadvantage on the marketing of milk." The exceptor did not elaborate, however, as to why this type of marketing situation would result from the proposed order changes.

The record in this proceeding contains no evidence that supports the broad claims made in the exception. Accordingly, the exception is denied.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Georgia marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

May 1980 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Georgia marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Note.—This final decision has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this decision should not be classified "significant" under those criteria. This decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.

Signed at Washington, D.C., on: July 16, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing Services.

Order [1] amending the order, regulating the handling of milk in the Georgia marketing area.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth, herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Georgia marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Georgia marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on June 11, 1980, and published in the **Federal Register** on June 16, 1980, (45 FR 40606) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to the following modifications:

1. A new amendment No. 1 is added to delete obsolete language relating to the Class I base plan in the definition of a producer-handler, and amendment No. 1

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

in the recommended decision is renumbered as 1–a.

2. The language in § 1007.92(a) is modified.

§ 1007.10 [Amended]

1. In § 1007.10, replace the semicolon at the end of paragraph (d) with a period; delete the word "and" at the end of paragraph (d); and delete paragraph (e).

1a. In § 1007.32, paragraph (a) is revised to read as follows:

§ 1007.32 Other reports.

(a) Each handler described in § 1007.9 (a), (b) and (c) shall report to the market administrator on or before the seventh day after the end of each month of February through August the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of February through August the pounds of base milk received from each producer during the month.

* * * * *

§ 1007.60 [Amended]

2. In § 100760 insert the word "and" after paragraph (e); replace the semicolon at the end of paragraph (f) with a period; delete the word "and" at the end of paragraph (f); and delete paragraph (g).

3. Section 1007.61 is revised to read as follows:

§ 100761 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of September through January per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1007.60 for all handles who filed the reports prescribed in § 1007.30 for the month and who made the payments pursuant to § 1007.71 for the preceding month;

(2) Add one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1007.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1007.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent shall be the weighted average price for each month and the uniform price for the months of September through January.

(b) For each month of February through August the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III milk by the Class III price;

(ii) Miltiply the remaining hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class II milk by the Class II price;

(iii) Miltiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

4. Section 1007.62 is revised to read as follows:

§ 1007.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the applicable uniform price(s) pursuant to § 1007.61 for such month.

§ 1007.71 [Amended]

5. In paragraph (a)(2)(i) of § 1007.71, the section reference "1007.61(b)" is changed to "1007.61"; and in paragraph (a)(2)(ii) of § 1007.71, the word "uniform" is changed to "weighted average."

6. In § 1007.73, paragraph (a) is revised to read as follows:

§ 1007.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month not less than the Class III price for the preceding month per hundred-weight of milk received during the first 15 days of the month less proper deductions authorized in writing by such producer;

(2) On or before the 15th day of each month at not less than the applicable uniform price(s) for the quantities of milk or base milk and excess milk received adjusted by the butterfat differential computed pursuant to § 1007.74, and by the location adjustment computed pursuant to § 1007.75, subject to the following:

(i) Less payments made pursuant to paragraph (a)(1) of this section;

(ii) Less proper deductions authorized in writing by such producer;

(iii) Less deductions for marketing services made pursuant to § 1007.86; and

(iv) If by such date such handler has not received full payment from the market administrator pursuant to § 1007.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

* * * * *

§ 1007.75 [Amended]

7. In paragraph (b) of § 1007.75, the word "uniform" is changed to "weighted average," where it appears in the paragraph.

§ 1007.76 [Amended]

8. In paragraph (a)(4) of § 1007.76, the word "uniform" is changed to "weighted average," where it appears in the paragraph.

9. The centerheading immediately preceding § 1007.90 and §§ 1007.90 through 1007.97 are revoked and a new centerheading and new §§ 1007.90 through 1007.94 are substituted therefor.

Base-Excess Plan

§ 1007.90 Base milk.

"Base milk" means the producer milk of a producer in each month of February through August that is not in excess of the producer's base multiplied by the number of days in the month.

§ 1007.91 Excess milk.

"Excess milk" means the producer milk of a producer in each month of February through August in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1007.92 Computation of base for each producer.

(a) Subject to § 1007.93, the base for each producer shall be an amount obtained by dividing the total pounds of producer milk delivered by such producer during the immediately preceding months of September through January by the number of days' production represented by such producer milk or by 145, whichever is more. If a producer operated more than one farm at the same time, a separate computation of base shall be made for each such farm.

(b) Except as provided in paragraph (c) of this section, any producer who, during the preceding months of September through January, delivered milk to a nonpool plant that became a pool plant after the beginning of such period shall be assigned a base in the same manner as if the dairy farmer had been a producer during such entire period, calculated from the producer's deliveries during such September-January period to such plant. A base thus assigned shall not be transferable.

(c) Any producer who delivered milk to a newly constructed plant that first received milk approved by a duly constituted health authority for fluid consumption not more than three months prior to the date it became a pool plant pursuant to § 1007.7(a) after the beginning of the base-forming period, and whose first delivery of such approved milk to the new plant was made not more than four months after the date of such plant's first receipt of such milk, shall be assigned a base calculated from such producer's verifiable deliveries of approved milk to all plants during such entire base-forming period. A base thus assigned shall not be transferable. This paragraph shall not apply to a newly constructed plant that is a replacement plant (as determined by the market administrator) for a pool plant pursuant to § 1007.7(a).

§ 1007.93 Base rules.

(a) Except as provided in § 1007.92(b) and (c), a base may be transferred only when a producer discontinues milk production and only in amounts of not less than 100-pound increments. A base transfer shall be effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Base may be transferred only to a person who is or will be a producer by the end of the month that the transfer is to be effective. In the case of intrafamily transfers, including transfers to the estate or from an estate to a member of the immediate family, such transfers may be effective on any day of the month if application for such transfer is filed with the market administrator within five days thereafter. An application for a base transfer shall be on a form approved by the market administrator and signed by the baseholder or the baseholder's heirs and the person or persons to whom the base is to be transferred. If a base is held jointly, the application must be signed by all joint holders or their heirs.

(b) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed-upon division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(c) Two or more producers in a partnership may combine their separately established bases by giving notice to the market administrator prior to the first day of the month in which such combination of bases is to be effective.

§ 1007.94 Announcement of established bases.

On or before March 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the immediately preceding months of September through January and shall notify each producer and the handler receiving milk from such dairy farmer of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

[FR Doc. 80-21821 Filed 7-18-80; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 210 and 211

[Docket No. ERA-R-80-22]

Synthetic Natural Gas Feedstock Allocation Revision

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing proposed changes to its synthetic natural gas (SNG) feedstock allocation regulations that would:

1. Exempt SNG feedstock use of price-decontrolled naphtha from the allocation regulations. All other uses of naphtha have been exempt from the price and allocation regulations since September 1976.

2. Delete restrictive criteria applicable to firms seeking allocations of propane for SNG use. In the alternative, existing SNG plants that use propane as feedstock would be given allocations, at their historical level of operations.

DATES: Written comments by September 19, 1980; requests to speak by August 18, 1980, 4:30 p.m.; Hearing date: August 26, 1980. If necessary, the hearing will continue at 9:30 a.m. the following day.

ADDRESSES: All written comments and requests to speak for the hearing to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-80-*22*, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. Hearing Location: Room 2105, 2000 M Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214-B, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3757.

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-4055.

William Caldwell (Regulations & Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3256.

Richard Johnson (Office of Petroleum Operations), Economic Regulatory

Administration, Room 6318, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3423.
William Funk or Joel M. Yudson (Office of General Counsel), Department of Energy, Room 6A–127, 1900 Independence Avenue, SW., Washington, D.C. 20584, (202) 252–7636 or 252–6744.

SUPPLEMENTAL INFORMATION:

I. Background
II. Amendments Proposed
III. Procedural Matters
IV. Written Comment and Public Hearing Procedures

I. Background

A. Regulatory History

Allocation regulations pertaining to SNG feedstock were first issued in 1974. The criteria for an allocation of petroleum products to SNG plants were restrictive, as the intent of the regulations was to minimize the construction of new SNG plants.[1] However, seven existing plants or plants under construction met the specified criteria for "grandfathering" and received permanent naphtha allocations based on the on site expenditure of at least five million dollars prior to May 1, 1974 and an existing supply contract for delivery of a specific volume of naphtha. Seven new SNG plants, which did not meet the "grandfathering" criteria, were completed after 1974. The regulations had the effect of limiting their petroleum feedstock use at a time when petroleum feedstock supplies were becoming relatively adequate and natural gas supplies were tight.

The SNG regulations were revised effective October 1, 1977. The revised regulations, set forth at section 211.29 as amended, are somewhat less restrictive, but they continue to provide detailed criteria for the allocation of SNG feedstocks, including the requirement that the SNG would be intended primarily for priority gas uses.

B. Current Situation

Anticipated construction of new SNG plants has not materialized. The primary reason is that the supply/demand balance for natural gas changed and, rather than facing a shortage situation, in many instances gas distribution companies have been able to obtain new pipline natural gas supplies. Moreover, SNG from petroleum-based feedstocks is less economically attractive because the price of petroleum has risen considerably since late 1978.

Since no recent petitions for new SNG plants have been filed, the principal allocation effort since late 1977 has been devoted to determining whether the SNG plants that were not grandfathered under the 1974 regulations meet the current standards for allocations. However, because the regulations still include the restrictive criterion that SNG be allocated for priority gas uses, the continued allocation of feedstock to the plants that were not grandfathered has become increasingly difficult and has imposed a considerable administrative burden on both ERA and the companies concerned.

The principal feedstocks for SNG plants are naphtha, natural gasoline and the liquid petroleum gases (primarily propane and butane). Price and allocation controls on naphtha, which is primarily used for gasoline blending and is also used as a petrochemical plant feedstock, were lifted in September 1976 (41 FR 30096, July 22, 1976), except for its end use as an SNG plant feedstock. Butane and natural gasoline were decontrolled on January 1, 1980 (44 FR 70118), December 6, 1979).

Propane is still subject to price and allocation controls, as well as the SNG feedstock limitations. However, on January 1, 1980, the use limitations on propane, including SNG feedstock use, were eased considerably (44 FR 60638, October 19, 1979). The use limits no longer apply to imported propane and are currently waived with respect to domestically produced surplus.

In summary, only nahtha (an otherwise decontrolled product) and propane are subject to the SNG plant feedstock limitations.

II. Proposed Regulations

Although the Department does not consider increased production of SNG from petroleum-based feedstocks to be a significant priority, adequate supplies of feedstocks are expected to exist in the short term, i.e., until the expiration of the allocation program on September 30, 1981, to allow existing plants to operate at historical levels. Because the lead time on SNG plant construction is well over a year and a half, no new SNG plants are expected to be built to operate before the expiration of the allocation program regardless of the SNG feedstock regulations in place. In addition, the regulations currently impose a discriminatory burden on those firms which use naphtha to produce SNG, a minor use of an otherwise decontrolled product.

Thus, we are proposing to exempt SNG feedstock use of naphtha from the allocation regulations. Furthermore, we are proposing to delete § 211.29 of the allocation regulations, in which the restrictive criteria are contained, and to allow applications for assignment of propane to be handled under the criteria of Subpart C of 10 CFR Part 205.

As an alternative to deleting § 211.29, we are proposing to provide base period uses for any existing SNG plants without allocations. The base period use for each facility would consist of the firm's highest level of purchases or consumption of an allocated product in any consecutive four calendar quarters prior to April 1, 1980. The suppliers during that period would become the base period suppliers. However, other willing refiner-suppliers, producers or importers could assume the obligation to supply the product. The SNG plant operator would be required to notify the suppliers of their supply obligations and furnish a copy of the notification to DOE. This alternative would recognize that the existing plants represent significant investments to the firms that built them and that adequate volumes of feedstock are available in the short term so that other users of propane would not be impacted by allocations to these plants.

III. Procedural Matters

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (Pub. L. 95–91, DOE Act), we are referring this proposed rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The FERC will have until the close of the comment period to make this determination.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

[1] These regulations and policies were contained in 10 CFR 211.29, Special Rule No. 1 to Subpart A of 10 CFR Part 211 and in an accompanying statement of policy.

A copy of the notice was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to prepare a regulatory analysis for those significant regulations which can be expected to have major economic consequences. A draft regulatory analysis has been prepared which analyzes the potential benefits and costs of the major proposals in this rulemaking as well as other alternatives that have been considered. The summary of the draft regulatory analysis is set forth as follows:

These proposals are made in response to the changes in the energy situation since 1974 when the regulations were put into effect. Since that time, an increase in natural gas availability, decrease in naphtha demand and increase in naphtha cost have combined to make any fears of the wide proliferation of SNG plants questionable. Six plants would be affected by a change in the regulations, since the remainder already have permanent allocations. One of these plants has a permanent allocation for one half of its feedstock needs. Currently these plants are required to file periodic lengthy applications meeting detailed criteria in order to receive feedstock assignment orders. This burden would be removed if naphtha, when used as a SNG feedstock, is exempted from the allocation regulations and those plants using propane as a feedstock are given a permanent allocation.

Analysis of the impacts of these proposals indicates that the impacts would be insignificant. SNG is not price competitive with natural gas in most circumstances because of high feedstock costs, and this should hold production of SNG to current levels. Additionally, there is an adequate supply of naphtha and propane to meet current needs without restrictive allocation procedures.

D. NEPA Requirements

The National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 431 *et seq.*) requires Federal agencies to prepare detailed statements on proposals for major Federal actions significantly affecting the quality of the human environment.

In 1977, the Federal Energy Administration issued a programmatic environmental impact statement (EIS) that analyzed the potential impacts of various regulatory options concerning SNG feedstock allocation. The programmatic EIS contains an analysis of "worst case" scenarios. Since that time, the likelihood of significant impact resulting from any of the different allocation alternatives has been greatly reduced.

We have concluded that for the following reasons the current proposals do not involve major Federal actions that would significantly affect the quality of the environment:

1. Since the lead time required to build a new SNG plant is well over a year and a half, a final rule in this matter would cause no new plants to be built prior to the expiration of the regulations on September 30, 1981.

2. Firms operating SNG plants may currently use domestically produced surplus and imported propane. Butane and natural gasoline are not subject to regulation. All of these products are expected to be available through September 1981 for use as SNG feedstock. Thus, these proposals would not greatly increase SNG plant operation.

3. Under current conditions market forces makes SNG an expensive substitute for natural gas. Increased naphtha prices and the presence of enough natural gas to encourage its use as a substitute for fuel oil make it highly improbable that SNG production will increase in the next two years.

For all of these reasons, no further environmental review of these proposals is required. Your comments on this determination are requested.

IV. Written Comment and Public Hearing Procedures

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the matters contained in this notice. Comments should be submitted by 4:30 p.m., e.d.t., on the date set forth in the "Dates" section of this notice, to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "SNG Feedstock Allocation Revision." Ten copies should be submitted.

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

Public Hearing

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

If you are selected to be heard, you will be so notified before 4:30 p.m., e.d.t., on the next to the last business day before the hearing. You will be required to submit one hundred copies of your statement at the hearing location on the morning of the hearing.

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

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

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., e.d.t., on the day before the hearing. If you wish to have a question asked at the hearing. If you wish to have a question asked at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room 5B–180, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcript of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, (15 U.S.C. 751 *et seq.*), Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385;

Federal Energy Administration Act of 1974, (15 U.S.C. 787 *et seq.*), Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, (42 U.S.C. 6201 *et seq.*), Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*), Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, we propose to amend Parts 210 and 211 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., July 11, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. Section 210.35 is amended by revising subparagraphs (d) (1) and (2) to read as follows:

§ 210.35 Exempted products.

* * * * *

(d) (1) Naphthas as defined in § 211.182 of this chapter are exempt from the provisions of Part 211 of this chapter.

(2) Naphthas as defined in § 212.31 of this chapter are exempt from the provisions of Part 212 of this chapter.

* * * * *

2. Section 211.1 is amended by revising subparagraph (b)(7) to read as follows:

§ 211.1 Scope.

* * * * *

(b) *Exclusion.* * * *

(7) Notwithstanding the provisions of Subpart J of this part, naphtha and gas oils are excluded from this part.

* * * * *

3. Section 211.29 is deleted.

or Alternatively:

3. Section 211.29 is amended by revising pragraph (b) to read as follows:

§ 211.29 Synthetic natural gas production.

* * * * *

(b) *Existing plants and pending applications.* (1) The allocations of firms that have received allocations of naphtha for SNG production pursuant to paragraph (4) of Special Rule No. 1 to Subpart A of Part 211 of this chapter, as in effect on July 1, 1977, shall remain in full force and effect.

(2) Firms without assigned base period uses that operated SNG plants prior to April 1, 1980 shall have as their base period uses for SNG feedstock use, SNG enrichment use and plant fuel an amount equal to their highest level of purchases or consumption of allocated products for such uses during any consecutive four calendar quarter period prior to April 1, 1980. The obligated suppliers will be the actual suppliers during the period chosen. However, if other refiner-suppliers, producers or importers are willing to supply the feedstock, they may assume the obligation to supply the allocated product. The SNG plant operator shall notify the firms of the volumes that will be required to be supplied by each supplier and furnish DOE with a copy of such notification.

* * * * *

[FR Doc. 80–21752 Filed 7–18–80; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. 1

[Docket No. 80–WE–26–AD]

Petition for Airworthiness Directive of the Airline Passengers Association, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of petition for airworthiness directive; request for comments.

SUMMARY: On May 19, 1980, the Airline Passengers Association, Inc., petitioned the Federal Aviation Administration (FAA) to issue an airworthiness directive against the McDonnell-Douglas DC–10 series aircraft that would: (1) require that the design of the wing slat system be changed to incorporate a positive locking device to ensure that the wing slats retained in their selected position under any combination of electrical, hydraulic, or mechanical failures; and (2) require that hydraulic and electrical systems be rerouted in the wings so that in the event of accidental damage to one system, the other systems are sufficiently separated so that they will not be adversely affected.

DATES: Comments must be received on or before September 19, 1980.

ADDRESS: Comments on the petition may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket, Rm 6W14, 15000 Aviation Boulevard, Hawthorne, California 90261.

All comments must be marked: Docket No. 80–WE–26–AD. Comments may be inspected at Room 6W14 between 7:30 and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: DeWitte T. Lawson, (213) 536–6270.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to submit such written data, views, or arguments on the petition to issue an airworthiness directive as they desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the petition to issue an airworthiness directive. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel will be filed in the Rules Docket.

Background Information

By letter of May 19, 1980, Mr. David S. Stempler, Chairman, Government Affairs Committee of the Board of Directors, Airline Passengers Association, Inc., 1919 Pennsylvania Avenue, N.W., Suite 300, Washington, D.C. 20006, petitioned the FAA to issue an airworthiness directive against the McDonnell-Douglas DC–10 series aircraft that would: (1) require a positive locking device in the wing slat system, and (2) require that the hydraulic and electrical systems be rerouted in the wings. This petition is published in its entirety as part of this notice.

The FAA determined through a design reevaluation, the review of all available aerodynamic data, and flight simulation that the DC–10 can be safely flown with full slat asymmetry. The airplane is fully controllable in all phases of the approved flight envelope with one wing slat system fully deployed and the other system fully retracted, provided this abnormal condition is made known to the crew so that compensating speed adjustment may be made. This is adequately provided for by the takeoff warning and stall warning systems provided all components are installed and operational. To increase the redundancy of the stall warning system of all DC–10 aircraft and assure that the flightcrew is made aware of any abnormal slat configuration, the FAA issued Airworthiness Directives 79–15–05 and 80–03–10, effective 7–13–79 and 2–21–80, respectively, requiring: (1) the installation of two autothrottle/speed control computers, each of which receives information on the positions of both outboard wing slat groups and information from both right and left angle of attack sensors, (2) that the slat function of the takeoff warning system

be operative during takeoff, and (3) installation of a stick shaker at the first officer's position in addition to that previously required at the captain's position, with both stick shakers activated by either autothrottle/speed control computer.

Documentation of this may be found in "Report to the Administrator on the Investigation of Compliance of the DC-10 Series Aircraft with Type Certification Requirements under Asymmetric Slat Conditions" and Airworthiness Directives 79-15-05 and 80-03-10, copies of which are available for review in the public docket.

Each slat segment of the DC-10 is driven through a cable system by two hydraulic actuators, one powered by the No. 1 hydraulic system and the other by the No. 3 hydraulic system. Each system is capable of powering the slats independently, but at a slower rate than with both systems operating together. The hydraulic pressure lines are all stainless steel and routed in the completely enclosed area behind the leading edge of the wing, forward of the wing spar, which is further protected by the slats themselves. Simultaneous failure of both pressure lines, by other than massive external damage inflicted against the leading edge of the wing inboard of the engine/pylon, is considered extremely remote. Further, the DC-10 is capable of continued safe flight and landing after failure of any two hydraulic and/or electrical systems.

All points addressed in the petition were considered in the "DC-10 Decision Basis", Summary Report, dated January 1980 and the references cited therein, a copy of which is available for review in the public docket.

This notice does not propose to issue an airworthiness directive, represent an FAA position, or otherwise commit the agency on the merits of the petition. Since the petition presents no new information, the FAA particularly seeks arguments or supporting data or information which explains why its previous decisions not to impose these requirements are believed to be in error, as implied by petitioner. The FAA will consider its course of action after it has had an opportunity to evaluate the petition in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking procedures to issue an airworthiness directive on this subject, appropriate rulemaking action, including an evaluation of the proposals contained in the petition, will be published.

The Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition of the Airline Passengers Association, Inc., dated May 19, 1980.

Issued in Los Angeles, Calif., on July 3, 1980.

John D. Mattson,

Director, Western Region.

May 19, 1980.

Re Petition for Rule Making.

Hon. Langhorne M. Bond,

Administrator, Federal Aviation Administration, Room 1010, Washington, D.C.

Gentlemen: The Airline Passengers Association, Inc., ("APA"), pursuant to 14 CFR Section 11.25, petitions the Federal Aviation Administration ("FAA") to institute a rule making proceeding to issue an airworthiness directive that would require certain design changes in McDonnell Douglas DC-10 series aircraft.

This airworthiness directive is necessary to ensure the continued safety of flight of DC-10 aircraft after any combination of electrical, hydraulic, or mechanical failures. Since safety should be the highest priority in air transportation, APA is acting in the public interest by petitioning for this rule making.

APA is the representative of over 60,000 frequent airline travelers and has been closely involved with continuing developments concerning the DC-10. APA believes that design changes are necessary in the DC-10 to add positive locking mechanisms for the wing slats and to reroute hydraulic and electrical lines in the wings. APA hereby petitions that an airworthiness directive be issued to require the following design changes in all DC-10 series aircraft. 1. *Require that the design of the wing slat system be changed to incorporate a positive locking device to ensure that the wing slats are retained in their selected position under any combination of electrical, hydraulic, or mechanical failures.*

Under normal take-off and landing conditions, safe flight may be possible when the wing leading edge slats are asymmetrically deployed, provided this condition is made known to the flight crew in time, the flight crew knows what corrective action to take based on the warning signals given and other information available to the crew, and the crew, in fact, takes the appropriate action in sufficient time. However, in the event of another failure, including loss of thrust, plus the asymmetric deployment of the wing slats, the aircraft could become uncontrollable at take off conditions even when knowledge of the condition is made known to the flight crew by warning signals and stick shakers. Added to this, is the fact that some DC-10 operators have deactivated their stall warning systems for the first five to eight seconds during take-off and initial climb-out, thereby reducing the effectiveness of the warning systems at this most critical time. In addition, an uncontrollable condition could occur under these same conditions during the final portion of the landing approach.

Assurance must be had that asymmetric slats or inadvertent retraction of the slats cannot occur under any circumstances of electrical, hydraulic, or mechanical failure. This requires a slat design which locks the slats into a pre-set position, irrespective of the damage to the in-put system.

The current DC-10 slat design is susceptible to single point failures in the hydraulic and electrical systems, and accidental damage could cause the slat or slats to retract inadvertently. Accidental damage to the slat system is possible, resulting from bird impact, disintegration of the engine, vibration, corrosion, or maintenance problems. Pre-flight inspection procedures and operation of the wing slate on the ground are not satisfactory solutions to the problem since the slat design is not fail-safe.

APA considers that the design of the DC-10 wing slat system does not meet the currrent requirements of FAR 25.671(c) and 25.697(a). Therefore, from a safety standpoint, the airplane is not airworthy. The slat design should be changed to incorporate a positive locking device so that the slats are retained in their selected position under any combination of system failures. In the event of a slat system failure, for whatever reason, the slat should become effectively irreversible so as to prevent any uncontrollable movement of the slats. 2. *Require that hydraulic and electrical systems be rerouted in the wings so that in the event of accidental damage to one system, the other systems are sufficiently separated so that they will not be adversely affected.*

The various parallel hydraulic and electrical systems of the DC-10 should be sufficiently separated from each other, either by structure or by distance, so that in the event of accidental damage to one system, it would be unlikely that the other back-up system could be affected by the same source of damage. For instance, in the wing, one hydraulic system should be routed in the forward portion of the wing and another should be routed in the aft portion of the wing. In the current DC-10 design, the systems are not adequately separated.

APA considers that these design changes are required immediately on all DC-10 aircraft to improve and assure safety of flight, APA thereby respectfully requests that the rule making proceedings that emanate from this petition be handled on an expedited basis.

Very truly yours,

David S. Stempler,

Chairman, Government Affairs, Committee of the Board of Directors.

[FR Doc. 80-21803 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-ARM-08]

Alteration of Control Zone and Establishment of 700' and 1200' Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to alter the present control zone, establish a 700' transition area and amend the present 1,200' transition area at Eagle County Airport, Eagle, Colorado, to provide controlled airspace for aircraft executing the new localizer directional array (LDA) nondirectional beacon (NDB)–"A" [LDA/NDB–"A"] instrument approach.

DATE: Comments must be received on or before August 18, 1980.

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

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

FOR FURTHER INFORMATION CONTACT: Robert E. Greene, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM–539), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837–3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

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

The Proposal

The Federal Aviation Administration (FAA) is considering an amendment to subpart F of Part 71 of the Federal Aviation Regulation (14 CFR Part 71) by revising the dimensions of the present control zone at the Eagle County Airport, Eagle, Colorado; and amending subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing a 700' transition area and revising the present 1,200' transition area at the Eagle County Airport, Eagle, Colorado.

It is proposed to make the revisions to the control zone, the 1,200' transition area and the establishment of the 700' transition area, coincide with the effective date of the new LDA/NDB–A instrument approach. Accordingly, the Federal Aviation Administration proposes the following amendments to subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending subpart F, Section 71.171 so as to establish the following control zone:

Eagle, Colo.

That airspace within a 5-mile radius of the Eagle Airport (latitude 39°38'42" N., longitude 106°54'43" W.) within 3 statute miles each side of the 252° bearing from the Eagle nondirectional beacon (NDB) (latitude 39°40'33" N., longitude 106°45'34" W.) extending from the 5-mile radius of the Eagle Airport to the Eagle NDB, within 3 miles each side of 072° bearing from the Eagle NDB extending 9 miles northeast of the Eagle NDB.

By amending subpart G, section 71.181 so as to establish the following transition areas:

Eagle, Colo.

That airspace extending upward from 700' above the surface within a 9-mile radius of the Eagle Airport (latitude 39°38'42' N., longitude 106°54'43" W.); within 3.5 miles each side of the 072 bearing from the Eagle NDB (latitude 39°40'33" N., longitude 106°45'34" W.) extending from the 9-mile radius of the Eagle Airport to 10 miles northeast of the Eagle NDB; and that airspace extending upward from 1,200' above the surface within the area bounded by a line beginning at latitude 40°01'30" N., longitude 106°34'00" W.; to latitude 39°35'15" N., longitude 106°10'30" W.; to latitude 39°34'00" N., longitude 106°35'40" W.; to latitude 39°25'00" N., longitude 107°07'10" W.; to latitude 39°45'45" N., longitude 107°15'45"; to point of beginning.

Drafting Information

The principal authors of this document are Robert E. Greene, Air Traffic Division, and Daniel J. Peterson, Office of the Regional Counsel, Rocky Mountain Region.

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

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colorado on July 8, 1980.

Issac H. Hoover,

Acting Director, Rocky Mountain Region.

[FR Doc. 80-21699 Filed 7-17-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-CE-16]

Transition Area, El Dorado, Kans.; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at El Dorado, Kansas to provide controlled airspace for aircraft executing a new instrument approach procedure to the El Dorado, Kansas Municipal Airport which is based on the El Dorado Non-Directional Radio Beacon (NDB), a navigational aid.

DATE: Comments must be received on or before August 28, 1980.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations,

Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

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

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

FOR FURTHER INFORMATION CONTACT: William W. Buck, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications recieved on or before August 28, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

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

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR Section 71.181) by designating a 700-foot transition area at El Dorado, Kansas. To enhance airport usage by providing instrument approach capability to the El Dorado, Kansas Municipal Airport, the City of El Dorado is installing an NDB on the airport. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at El Dorado, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980 (45 FR 445) by adding the following new transition area:

El Dorado, Kans.

That airspace extending upwards from 700' above the surface within a 5-mile radius of the El Dorado Municipal Airport (Latitude 37° 46'32"N, Longitude 96°48'58"W), and within 3 miles each side of the El Dorado NDB (Latitude 37°46'46"N, Longitude 96°48'58"W) 217° bearing, extending from the 5-mile radius area to 8.5 miles southwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.65 of Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on July 10, 1980.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 80-21694 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-CE-12]

Transition Area, Excelsior Springs, Missouri; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposed to designate a 700-foot transition area at Excelsior Springs, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Excelsior Springs, Missouri Memorial Airport, utilizing the Napoleon OMNI directional range as a navigational aid.

DATE: Comments must be receive on or before August 28, 1980.

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

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

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

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before August 28, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments recieved. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested is being placed on a

mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Excelsior Springs, Missouri. To enhance airport usage, a new instrument approach procedure is being established for the Excelsior Springs, Missouri Memorial Airport, utilizing the Napoleon, Missouri OMNI directional range as a navigational aid. The establishment of a new instrument approach procedure base on this navigational aid entails designation of a transition area at Excelsior Springs, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445) by adding the following new transition area:

Excelsior Springs, Mo.

That airspace extending upward from 700' above the surface within a 5-mile radius of the Excelsior Springs Memorial Airport (Latitude 39°20'14" N, Longitude 94°11'51" W) and within 3 miles each side of the Napoleon, Missouri VORTAC R348° extending from the 5-mile radius area to 13 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.65 of Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessaary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on July 10, 1980.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 80-21695 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-AAL-11]

Proposed Alteration of Transition Area, Kenai, Alaska, and Revocation of Transition Area, Soldotna, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice to alter the Kenai, Alaska, transition area by expanding the 700-foot AGL transition area and to revoke the Soldotna, Alaska, 700-foot AGL transition area. The need for this action was created when the Kenai VOR runway 19 and ILS runway 19 approaches were amended by establishing an 8-mile DME arc northeast of the Kenai VORTAC with a minimum altitude of 1,900 feet MSL. The proposed alteration would provide additional controlled airspace for aircraft which utilize the Kenai VORTAC 8 DME arc while transitioning to the final approach course for these approaches. The expanded Kenai transition area would encompass the present Soldotna 700-foot AGL transition area, thereby eliminating the need for the Soldotna, Alaska, transition area.

DATE: Comments must be received on or before August 18, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attn: Chief, Air Traffic Division, Docket No. 80-AAL-11, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location: Office of the Regional Counsel, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513.

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

FOR FURTHER INFORMATION CONTACT: Jerry M. Wylie, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before August 18, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, or by calling (907) 271-5902. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes application procedures.

The Proposal

The FAA is considering an amendment of Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Kenai, Alaska, transition area and to revoke the Soldotna, Alaska, transition area.

This amendment would provide additional controlled airspace to protect IFR aircraft utilizing the Kenai VORTAC 8 DME arc to transition to the final approach course for the ILS runway 19 or VOR runway 19 approaches to Kenai. The additional controlled airspace would encompass the present Soldotna, Alaska, transition area and therefore the need for a separate Soldotna transition area would no longer exist.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as

republished (45 FR 445) by revoking the Soldotna, Alaska, transition area and by amending the Kenai, Alaska, transition area to read as follows:

Kenai, Alaska

That airspace extending upward from 700 feet above the surface within an 17.5-mile radius of the Kenai Municipal Airport (latitude 60°34'21"N., longitude 115°14'44"W.), extending clockwise from the 007° to the 290° bearing from the airport.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)); 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Anchorage, Alaska on July 7, 1980.

Robert L. Faith,

Director, Alaskan Region.

[FR Doc. 80-21769 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[PSDR-66B; Docket No. 37982; Dated: July 14, 1980]

Fare Flexibility for Puerto Rico/Virgin Islands, Hawaii, and Alaska

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: In PS-96, also adopted today, the CAB announced interim fare suspension policies for Puerto Rico/Virgin Islands, Hawaii, and Lower-48-Alaska (but not intra-Alaska) markets. This issuance requests comments on that subject.

DATES: Comments by: August 18, 1980. Reply comments by: August 28, 1980.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 37982, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., 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, NW., Washington, D.C. 20428; 202-673-5298.

SUPPLEMENTARY INFORMATION: For the reasons set forth in PS-96, also adopted today, the Board will reconsider the interim fare suspension policies announced in that issuance.

Accordingly, the Board requests comments on the interim fare suspension policies set forth in PS-96.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-21712 Filed 7-18-80; 8:45]

BILLING CODE 6320-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 885

[Docket No. R-80-780]

Loans for Housing for the Elderly or Handicapped; Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of congressional waiver request.

SUMMARY: Section 7(o)(4) of the Department of Housing and Urban Development Act permits the Secretary of HUD to request a waiver of the legislation's requirement of a 20 day delayed effective date for final rules in appropriate instances. This notice lists and briefly summarizes for public information a final rule concerning cost limits on section 202 housing for the elderly or handicapped with respect to which the Secretary is presently requesting a waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both Congressional Banking Committees the final rule listed below. The purpose of the transmittal is to request waiver of the 20-day delayed effective date for the final rule under Section 7(o)(3) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Final Rule—24 CFR Part 885, Loans for Housing for the Elderly or Handicapped.

This final rule amends 24 CFR 885.410 and will update the presently established cost limits (zero to two-bedroom units) for the Section 202 direct loan program for housing the elderly or handicapped. Additionally, it establishes cost limits for three and for four or more bedroom units to accommodate the non-elderly handicapped with large families.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535 (o); Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., July 16, 1980.

Moon Landrieu,

Secretary, U.S. Department of Housing and Urban Development.

[FR Doc. 80-21842 Filed 7-18-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 16

[Docket No. R-80-837]

Privacy Act of 1974

AGENCY: Department of Housing and Urban Development/Office of the Secretary.

ACTION: Proposed rule.

SUMMARY: This rule completely revises the HUD regulations which carry out the Privacy Act of 1974. It is intended to make the regulations easier to understand.

COMMENT DUE DATE: Comments on the proposed rule should be submitted on or before September 19, 1980. Comments received after this date will be considered if time permits.

ADDRESS: Comments should be sent to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Regulations Staff, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 Phone: (202) 755-5570 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Executive Order 12044, "Improving Government Regulations", was issued by the President on March 24, 1978. The Order requires all Executive Branch agencies to simplify and clarify the language of their existing regulations,

making them more understandable to those who must comply with them.

In accordance with the Order, HUD began a pilot project to recodify several existing regulations into plain English. HUD's Privacy Act regulations, contained in 24 CFR Part 16, was one of the regulations chosen for this project.

In recodifying these regulations, the HUD Office of Regulations used the Document Design Project ("DDP") as consultant. The DDP is a project at the American Institutes for Research, Washington, D.C., funded by the National Institute of Education.

The proposed rule is a complete revision of Part 16 which uses simpler language and shorter sentences throughout the regulations. In addition, we have rearranged the present sections of Part 16 into an order that is more convenient for the reader. Moreover, we have proposed a number of minor changes in the present Privacy Act procedures at HUD, to make the regulations more consistent internally.

We have used two new techniques, suggested by the DDP consultants, to make the revised regulations more understandable. First, we have written them partly in the second person, using "you" instead of the "individual" to refer to the reader. Second, the revised regulations contain a "sign post" section (§ 16.3) which explains to the reader which sections to consult in order to exercise specific rights under the Privacy Act.

We wish to highlight four changes which this proposed rule would make in the present HUD Privacy Act procedures.

First, in proposed § 16.10(a), we would make the administrative procedure for reconsideration of a denial of a request to see or copy a HUD record applicable in all cases. At present, the Privacy Appeals Officer cannot reconsider a request to see or copy a record which was denied because it is an "exempted record".

Second, in proposed § 16.17(c), a request made under the Freedom of Information Act (FOIA) for personal information in a Privacy Act Records System would be processed as a Privacy Act request in all cases. Under the present procedure, the decision to process the request under the FOIA or the Privacy Act depends on the type of information submitted with the request. This can lead to unfair results, since rights to information differ somewhat under the two acts.

Third, under proposed § 16.20(d), if you make a Privacy Act request, HUD would tell you about, or let you see or copy, any record about you that you could get under the FOIA.

Finally, under proposed § 16.18, HUD would charge a reasonable fee for any employee's time spent in computer programming, or for any computer time used, at your request.

HUD will welcome any comments on this proposed revision, especially those relating to the clarity of specific provisions. However, we would also like general comments on whether the techniques used here are workable and effective.

HUD has made a Finding that this proposed rule will not have any substantial impact on the environment. Therefore, no Environmental Impact Statement is required. You may look at or copy the Finding in the Office of the Rules Docket Clerk during normal business hours.

Accordingly, HUD proposes to amend 24 CFR Part 16 by revising it to read as follows:

PART 16—PRIVACY ACT OF 1974

Sec.

16.1 Purpose of the Privacy Act Regulations.
16.2 Explanation of certain terms used in the Privacy Act Regulations.
16.3 How to exercise your rights under the Privacy Act.
16.4 Responsibilities of HUD under the Privacy Act.
16.5 How to get information about HUD records.
16.6 How to see or copy HUD records.
16.7 Proof of identity.
16.8 Procedure for seeing or copying HUD records.
16.9 Denial of request to see or copy HUD records.
16.10 What you can do if HUD denies your request to see or copy HUD records.
16.11 How to correct HUD records.
16.12 HUD action on requests to correct HUD records.
16.13 What you can do if HUD denies your request to correct HUD records.
16.14 Your right to file a disagreement statement.
16.15 Your right to sue HUD.
16.16 Time limits on HUD in connection with requests and appeals.
16.17 Processing of requests under Privacy Act or FOIA.
16.18 Fees.
16.19 Disclosure of HUD records to others.
16.20 HUD records exempted from Privacy Act requirements.
16.21 Required statement about information collected by HUD.
16.22 Penalties.
Appendix A—List of Privacy Act Officers and Office Addresses.

Authority: Department of Housing and Urban Development Act, Pub. L. 89–174, Sec. 7(d), 42 U.S.C. 3535(d); Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a.

PART 16—PRIVACY ACT OF 1974

§ 16.1 Purpose of the Privacy Act Regulations.

(a) In December, 1974 Congress passed the Privacy Act of 1974 to safeguard the privacy rights of individuals. The Privacy Act is designed to protect you, as a citizen of the United States or a permanent-residence alien, from misuse of the records kept by Federal agencies. It also provides a way for you to find out what records about you are being kept in Federal agency files and to see and copy those records and correct errors contained in them. These rights are described in Section 552a of Title 5 of the United States Code.

(b) The Privacy Act requires each Federal agency that maintains a system of records about individuals to issue regulations explaining how you can exercise the rights given to you by the Privacy Act. Since the Department of Housing and Urban Development ("HUD") keeps a number of systems of records about individuals, HUD has issued these regulations to describe its policies and procedures for carrying out the provisions of the Privacy Act. These regulations apply to all offices and units which are part of HUD.

(c) The Privacy Act also requires HUD to publish in the **Federal Register**, at least once a year, a notice describing its systems of records about individuals. You should be able to find a copy of the **Federal Register** with this notice at your local public library.[1] If not, you can get a copy of the notice from a HUD Privacy Act Officer.

(d) These regulations apply to information about an individual which is kept in a system of records described in a current **Federal Register** notice. Any request for other information will be handled under HUD's Freedom of Information Act ("FOIA") regulations (24 CFR Part 15.) HUD will decide which regulations apply in a particular case by following the rules set out in § 16.17

(e) HUD's Assistant Secretary for Administration is responsible for carrying out these regulations. As part of that responsibility, this Assistant Secretary is authorized to issue the internal orders that are needed to comply with the Privacy Act. This Assistant Secretary is also responsible for publishing the required notices describing systems of records.

§ 16.2 Explanation of Certain Terms Used in the Privacy Act Regulations.

(a) The terms "you" and "your" are used in these regulations to refer to any

[1] The most recent annual publication of this notice can be found in the issue of the **Federal Register** dated December 13, 1979 (44 FR 72288).

citizen of the United States or any alien who was lawfully admitted into the United States for permanent residence. If you are a minor and your parent is acting on your behalf, the terms would also refer to your parent. If a guardian or other authorized representative is acting on your behalf, the terms would also refer to that guardian or representative.

(b) The term "guardian" means a person appointed by a court to take care of the affairs of someone who is incompetent because of physical or mental disorders or because of age.

(c) The term "parent" means a parent of a minor child.

(d) The term "Privacy Act Officer" means a HUD employee authorized to receive Privacy Act requests and act on them.

(e) The term "system of records" means a group of records kept by HUD in which information about you is found by using your name or a number or other identifier assigned only to you.

§ 16.3 How to Exercise Your Rights under the Privacy Act.

The Privacy Act gives you the following rights:

(a) *Right to find out what records about you HUD may have.* If you want to find out whether HUD is keeping any records about you, follow the instructions in § 16.5, "How to get information about HUD records".

(b) *Right to see or get a copy of any record about you.* If you want to see or get a copy of any HUD record about you, follow the instructions in § 16.6, "How to see or copy HUD records".

(c) *Right to correct any record about you.* If you believe that there is an error in any HUD record about you and you want to have it corrected, follow the instructions in § 16.11, "How to correct HUD records".

(d) *Right to appeal a denial of any request that you made.* If HUD has denied any request that you made to see or copy a record or correct a record, you may appeal from this decision by following the procedures described in § 16.10, "What you can do if HUD denies your request to see or copy HUD records," or § 16.13, "What you can do if HUD denies your request to corect HUD records".

(e) *Right to sue HUD in court.* Your right to sue HUD in court for violating the Privacy Act is explained in § 16.15, "Your right to sue HUD".

§ 16.4 Responsibilities of HUD under the Privacy Act.

(a) In carrying out the requirements of the Privacy Act, HUD will act promptly on any request or appeal that is made by you or on your behalf.

(b) HUD will keep information about you only if that information is needed to perform HUD's lawful functions. HUD will try to make sure that all information about you that it does keep is accurate, necessary, up-to-date, and complete, so that any decisions that HUD makes about you on the basis of that information will be fair. Whenever possible, HUD will obtain information about you from you, rather than from another source. HUD will also take reasonable steps to protect information about you from being disclosed improperly.

(c) HUD will not keep any record describing how you exercise your rights under the First Amendment, unless keeping of the record is—

(1) Expressly authorized by law;

(2) Expressly authorized by you; or

(3) Needed in connection with a law enforcement activity.

§ 16.5 How to get information about HUD records.

(a) This section explains how to make a request to find out whether HUD is keeping any records about you in a system of records.

(b) You must make your request to a Privacy Act Officer at HUD. You may make the request in person at the office of a Privacy Act Officer, or you may submit it by mail addressed to a Privacy Act Officer. A list of Privacy Act Officers and their office addresses is contained in appendix A to these regulations. A Privacy Act Officer may act on an oral request, but has the right to require you to submit your request in writing.

(c) When you submit a written request, you should write the words, "PRIVACY ACT REQUEST FOR INFORMATION" on the request and, if you mail it, on the envelope containing the request.

(d) If you do not know which system of records might contain a record about you, or where the record may be kept, you can get help, either in person or by mail, from a Privacy Act Officer.

(e) You must personally sign the request for information, and you should include the following information:

(1) Your name, address, and telephone number;

(2) If you are making the request as a parent, guardian or authorized representative of another person, the name and address of that person, and a statement that the person is a living citizen of the United States or a permanent-residence alien;

(3) A statement that you are a citizen of the United States or a permanent-residence alien;

(4) The name and location of the system of records (as published in the **Federal Register**) in which the record can be found;

(5) Any additional information which might help HUD to act on the request (such as your past or present relationship with HUD, with relevant dates) or to verify your identity (such as date and place of birth, and dates and location of employment); and

(6) Date of the request.

(f) Whenever you make a request under this section—

(1) You must give proof of your identity, as explained in § 16.7(b).

(2) If you are making the request on behalf of another person, you must give proof of your relationship to that person, as explained in § 16.7(e).

(g) When you make a request for information about HUD records, the Privacy Act Officer will try to get the information for you within ten working days after your request is received. If the Privacy Act Officer cannot get the information for you within the 10-day period, the Officer will send you a letter telling you what is happening on your request. If further information is needed for processing the request, the Privacy Act Officer will ask you for the information in the letter.

§ 16.6 How to See or Copy HUD Records.

(a) This section explains how you can see, or get a copy of, a record about you which HUD has in one of its systems of records.

(b) You must first make a request to see or copy the record. You may make the request in person at the office of a Privacy Act Officer, or you may submit it by mail addressed to a Privacy Act Officer. (See Appendix A for addresses). The request should be in writing. If you make an oral request, the Privacy Act Officer may ask you to submit it in writing.

(c) When you make a written request, you should write the words "PRIVACY ACT REQUEST TO SEE OR COPY A RECORD" on the request itself and, if you mail the request, on the envelope containing it.

(d) You must personally sign the request, and you should include all the information described in paragraph (e) of § 16.5. This is the same information that is needed in a request for information about HUD records. If you have previously requested information about the record you now wish to see or copy, you should say so. You don't have to explain why you want to see or copy the record.

(e) When you make a request to see or copy a record, you will have to give

proof of your identity (see the requirements in § 16.7).

(f) If you believe that any part of these regulations is preventing you from exercising your right to see or copy a record about you, HUD will consider any alternative suggestions you may wish to make.

§ 16.7 Proof of identity.

(a) This section tells you what you have to do to prove your identity when making a request.

(b) When you make a request in person—

(1) You should show the Privacy Act Officer a document with your photograph or signature on it, such as:

(i) Driver's license;

(ii) Employment identification card;

(iii) Passport;

(iv) Professional association or union membership card;

(v) Student identification card;

(vi) Credit card; or

(vii) Unemployment insurance book or card.

(2) if you do not have a document with your photograph or signature on it, you may show the Privacy Act Officer some other document which identifies you, such as:

(i) Medicaid card; or

(ii) Insurance policy.

(3) If you do not have any document which identifies you, you will have to sign a form stating your identity. This form will indicate that you understand the penalties for making a false Privacy Act request (see § 16.22 of these regulations).

(c)(1) When you make a request by mail, you must prove your identity by giving your signature, address and a copy of one of the documents described in paragraph (b)(1) of this section which has your signature on it.

(2) In addition, the Privacy Act Officer may require you to provide a statement by a notary public (or some other person who can legally take sworn statements) that you have proved your identity to that person. The following is suggested as a form for the statement:

City or county of:_____

State of:_____

1. I am a notary public (or state other title) authorized to administer oaths in the city or county and state shown above.

2. On (*date*), 19—, (*name of person*) proved his (or her) identity to me by showing me the following document: (*description of document*).

3. (*Name of person*) has signed his (or her) name in my presence as follows: (*signature*).

_____

Signature of Notary Public.

My commission expires: (expiration date).

(d) HUD wishes to avoid any improper disclosure of records about you or any other individual. For that reason, the Privacy Act Officer must be satisfied that you have adequately proved your identity. If the Privacy Act Officer believes that the document you have shown or the statement you have submitted is not adequate, the Officer may require additional proof of your identity.

(e) You may make a request on behalf of another person only if you are a parent, guardian or authorized representative of that person and that person is living at the time of your request. In making such a request, you must prove your relationship to that person, as follows:

(1) If you are making the request as a parent of a minor child, you must provide an official copy of the child's birth certificate.

(2) If you are making the request as a guardian of another person, you must provide an official copy of the court order appointing you.

(3) If you are making the request as an attorney or other authorized representative of another person, you must provide a notarized statement by that person permitting you to act on his or her behalf.

§ 16.8 Procedure for seeing or copying HUD records.

(a) When you make a request to see or copy a record, the Privacy Act Officer will try to get the record for you within ten working days after your request is received. Generally, the Privacy Act Officer should be able to get the record for you within that time, unless: the record is in storage; you have asked for a large amount of information; the Privacy Act Officer must separate or block out information on other persons on the requested record; or HUD has to consult with other agencies about the record. If the Privacy Act Officer cannot get the record for you within the 10-day period, that Officer will send you a letter explaining what is happening on your request. If further information is needed for processing the request, the Privacy Act Officer will ask you for the information in the letter.

(b) If the Privacy Act Officer decides that you may see or copy the requested record, that Officer will either mail you a free copy or notify you of the decision by letter or telephone. If the Privacy Act Officer chooses to notify you, you will be told:

(1) Whether you may see the record personally and, if so, where and when you may see it.

(2) If you wish to have a copy mailed to you, when it could be mailed and how much the copying will cost you.

(3) Any additional requirements which you will have to meet before you can see or copy the record.

(c) If you wish to see the record personally at a place closer to you than the place selected by the Privacy Act Officer, you may ask that the record be sent to a more convenient place. The Privacy Act Officer will arrange the transfer if a suitable place is available where you can look at the record without interfering with HUD operations or creating an undue cost to HUD.

(d) When you are allowed to see or copy a record, HUD will provide any additional information or help that you may need to understand the record.

(e) The Privacy Act Officer may decide to provide you with a copy of an abstract of the record, rather than the original record, when appropriate. This action would be appropriate, for example, when the record is stored in a computer system or when information in the record about other persons must be separated or blocked out. An original record may be made available to you only under the supervision of the Privacy Act Officer.

(f) When you go to see a requested record, you have the right to bring another person with you to see or discuss the record. However, unless you are acting as a parent or guardian of the other person, both you and the other person must sign a consent form (which the Privacy Act Officer will provide). You do not have to explain why you want to have this other person present.

§ 16.9 Denial of request to see or copy HUD records.

(a) HUD can deny your request to see or copy a HUD record about you only if the Privacy Act Officer decides that:

(1) The record is an "exempted record" described under § 16.20;

(2) The record contains or is based on information gathered by HUD for use in a civil legal action; or

(3) You have failed without good reason to meet the requirements of these regulations.

(b) If your request is denied, the Privacy Act Officer will send you a letter telling you:

(1) His or her name and position with HUD;

(2) Date of the denial;

(3) Reasons for the denial, including a reference to appropriate parts of the Privacy Act and these regulations;

(4) Whether you may have your request reconsidered by the Privacy Appeals Officer at HUD (see § 16.10(b) concerning reconsideration); and

(5) If the Privacy Appeals Officer will not reconsider your request, that you may appeal the denial to the Federal district court.

§ 16.10 What you can do if HUD denies your request to see or copy HUD records.

(a) If your request to see or copy a record is denied, you may ask the Privacy Appeals Officer at HUD to reconsider your request. The General Counsel of HUD serves as the Privacy Appeals Officer.

(b) If you decide to ask that your request be reconsidered, you must send a letter to the Privacy Appeals Officer, who will be named in the denial letter sent to you. You must state in your letter why you believe that HUD was wrong in denying your request, and you must sign the letter personally. You should write the words "PRIVACY ACT REQUEST FOR RECONSIDERATION" on both the letter and the envelope containing it. You should include with you letter: (1) a copy of your original request to see or copy the record, if the request was in writing, and (2) a copy of the denial letter sent to you by HUD.

(c) Your letter must be received at HUD within 30 days after the date of the denial letter sent to you by HUD.

(d) HUD will not give you any hearing in connection with its reconsideration of your request. The final decision will be made by the Privacy Appeals Officer on the basis of the facts and arguments that you present in your letter.

(e) The Privacy Appeals Officer must issue a written decision within 30 working days after the date that your letter is received at HUD, unless this period is extended. The Privacy Appeals Officer may extend the period for up to 30 additional working days if that Officer decides that the extension is needed to consider your case fairly. However, if there are unusual circumstances, such as those described in the second sentence of paragraph (a) of § 16.8, the Privacy Appeals Officer may extend the period for more than 30 additional working days. In the event of any extension, the Privacy Appeals Officer will send you a letter telling you the reason for the extension and when you can expect the decision to be made.

(f) If the Privacy Appeals Officer upholds the denial of your request, in whole or in part, the decision will include a statement telling you that you may appeal the decision to the Federal district court.

§ 16.11 How to correct HUD records.

(a) This section explains how you can correct an error contained in any HUD record about you which you have seen or copied.

(b) If you beieve that there is an error in a HUD record about you and you want to have HUD correct it, you must make a request to correct the record. You may make the request in person at the office of a Privacy Act Officer, or you may submit it by mail addressed to a Privacy Act Officer. (See Appendix A for addresses). The request should be in writing. If you make an oral request, the Privacy Act Officer may ask you to submit it in writing.

(c) When you make a written request, you should write the words "PRIVACY ACT REQUEST TO CORRECT A RECORD" on the request itself and, if you mail it to HUD, on the envelope containing the request.

(d) You must personally sign the request, and you should include in it all of the following:

(1) A description of the record you want HUD to correct, giving the title and date of the record, if possible, and the paragraph and sentence or line where the error is located;

(2) Any words which should be taken out of the record;

(3) Any words which should be inserted in or added to the record, giving the place where the new words should go; and

(4) A statement explaining why HUD should correct the record, with any documents or other evidence supporting the statement.

(e) HUD may check on the accuracy of any documents or other evidence which you submit.

§ 16.12 HUD action on requests to correct HUD records.

(a) When you make a request to correct a HUD record, the Privacy Act Officer will try to act on your request within ten working days after your request is received. Generally, the Privacy Act Officer should be able to review and act on your request within that time, unless the Officer needs further information, the record is in storage, your request involves a large number of records, or HUD will have to consult with other agencies.

(b) If the Privacy Act Officer cannot act on your request within the 10-day period, the Officer will send you a letter telling you when you can expect action on your request and explaining the reason for the delay. If the Privacy Act Officer needs more information to process your request, the Officer will ask you for the information in the letter. In a case in which there is a delay, the Privacy Act Officer should be able to make a decision within 30 working days after receiving your request or, if more information is needed, within 30 working days after receiving the information.

(c) In making a decision on your request, the Privacy Act Officer will consider the following:

(1) How strong the evidence that you submit is;

(2) How accurate the information is in the record;

(3) How relevant or necessary the information is to the purpose for which HUD collected it;

(4) Whether the information is up-to-date;

(5) Whether the information is complete;

(6) Whether denying your request could result in future decisions against you;

(7) The type of record which you want to correct; and

(8) Whether there are any problems in correcting the record in the way that you request.

(d) The Privacy Act Officer can deny your request only if the Officer decides that:

(1) The evidence you have submitted does not justify the correction under the guidelines set out in paragraph (c) above;

(2) HUD created the record that you want to correct to use in a legal proceeding;

(3) The correction would violate a law or regulation; or

(4) You have failed to comply with these regulations without good reason.

(e) If the Privacy Act Officer decides to correct the record as you have requested: (1) The Officer will send you a letter telling you the decision and, if possible, enclose a copy of the corrected record. If a copy cannot be provided, the letter will tell you how the correction was made; (2) The Officer will check HUD's files to see if the record was shown or given to anyone other than you before it was corrected. if the files show that it was, the Privacy Act Officer will write to those others and tell them about the correction. If any of them is another Federal agency, the letter must ask the agency to do the following:

(i) Make the same correction in its records;

(ii) Send HUD a letter acknowledging the correction, and

(iii) Tell any others to whom it has shown or given the record about the correction.

(f) If the Privacy Act Officer decides to deny your request, the Officer will send you a letter telling you the decision and giving the following information:

(1) His or her name and position at HUD;

(2) The date of the denial;

(3) The reasons for the denial, including references to provisions of the Privacy act and these regulations;

(4) How to appeal the denial (see § 16.13); and

(5) The name and address of the Privacy Appeals Officer.

(g) If the Privacy Act Officer decides to make only part of the correction you requested, the Officer will send you a letter that complies with both paragraphs (e) and (f) above, as appropriate.

16.13 What you can do if HUD denies your request to correct HUD records.

(a) If the Privacy Act Officer denies (or partially denies) your request to correct a HUD record, the Officer will send you a letter telling you that your request has been denied. You have a right to appeal this denial.

(b) If you decide to appeal, you must send a letter to the Privacy Appeals Officer, whose name appears in the denial letter sent to you by HUD. You must state in your letter why you believe that HUD was wrong in denying your request, and you must sign the letter personally. You should write the words "PRIVACY ACT APPEAL" on both the letter and the envelope containing it. You must include with your letter: (1) a copy of your original request to correct the record, and (2) a copy of the denial letter sent to you by HUD. Privacy Appeals Officer will obtain a copy of the record that you want to correct directly from the Privacy Act Officer who sent your letter of denial.

(c) Your letter must be received at HUD within 30 days after the date on the denial letter HUD sent to you.

(d) Normally, the Privacy Appeals Officer will need to consider only your letter of appeal and the documents mentioned in paragraph (b), in deciding your appeal. However, the Privacy Appeals Officer may obtain additional information if it is needed for a fair decision. In that case, the Privacy Appeals Officer will tell you about the additional information being considered and give you a chance to comment on it.

(e) HUD will not give you any hearing on your appeal of a denial of a request to correct HUD records.

(f) Privacy Appeals Officer will decide your appeal within 30 working days after the date that your letter of appeal is received at HUD, unless this period is extended. The Privacy Appeals Officer may extend the period for up to 30 additional working days if the Officer decides that the extension is needed for a fair consideration of your appeal. However, if there are unusual circumstances, such as those described in the second sentence of paragraph (a) of § 6.8, the Privacy Appeals Officer may extend the period for more than 30 additional working days. In the event of any extension, the Privacy Appeals Officer will send you a letter telling you the reason for the extension and when you can expect the decision on your appeal.

(g) In deciding your appeal, the Privacy Appeals Officer will consider the factors described in paragraph (c) of § 16.12. The Privacy Appeals Officer can uphold the denial of your request only if the Officer decides that one or more of the standards described in paragraph (d) of § 16.12 applies to your case.

(h) If the decision is in your favor:

(1) The Privacy Appeals Officer will prepare a letter describing the correction to be made in the HUD record about you. The original letter will go to you, with a copy to the Privacy Act Officer who originally denied your request to correct the record.

(2) The Privacy Act Officer will do the following, within 30 days after receiving the copy of the letter:

(i) Make the correction in the HUD record;

(ii) Send you a letter telling you that the correction has been made, enclosing, if possible, a copy of the corrected record. If a a copy be provided, the letter will tell you how the correction was made; and

(iii) Send letters to any others who saw or got a copy of the record before it was corrected, following the procedure described in 16.12(e)(2).

(i) If the decision is not in your favor, the Privacy Appeals Officer will send you a letter telling you:

(1) The reason for the decision;

(2) Your right to file a "disagreement statement" with HUD, as described in §16.14; and

(3) Your right to sue HUD, as described in § 16.15.

(j) If the decision is only partially in your favor, the Privacy Appeals Officer will send you a letter that complies with both paragraphs (h) and (i) above, as appropriate.

(k) A copy of the decision letter sent to you by the Privacy Appeals Officer (or a summary of the letter) will be kept by HUD with the record about you, if you file a "disagreement statement" under § 16.14. However, you will not be able to have the decision letter (or summary) corrected under § 16.11–§16.13 of these regulations.

§ 16.14 Your right to file a disagreement statement.

(a) If the decision on your appeal of a denial of your request to correct a HUD record is not completely in your favor, you may submit a written "disagreement statement" to the Privacy Appeals Officer, giving the reasons why you disagree with the decision.

(b) The statement should be brief (usually not more than one page). HUD may reject a statement that is too long. The statement should give the date of the decision letter on your appeal and it must be signed by you.

(c) When the Privacy Appeals Officer receives your disagreement statement, the Officer will send you a letter telling you when it was received.

(d) The HUD record which you wanted to correct will then be marked to show that you have submitted a disagreement statement. If HUD later shows or gives the record to anyone other than you, HUD will include with the record a copy of your disagreement statement and a copy of the decision letter (or a summary of the letter).

(e) The Privacy Appeals Officer will also check HUD's files to see if the record was shown or given to anyone other than you before you submitted the disagreement statement. If the files show that it was, the Privacy Appeals Officer will send those others a copy of your disagreement statement, along with a copy of the decision letter (or a summary of the letter).

§ 16.15 Your right to sue HUD.

(a) The Privacy Act gives you the right to sue HUD in a Federal district court if HUD—

(1) Refuses to let you see or copy a record about you.

(2) Refuses to correct an error in a record about you after you have made an appeal under § 16.13;

(3) Makes any decision against you on the basis of an inaccurate record about you; or

(4) Violates the Privacy Act or any of these regulations in any other way concerning you or a record about you.

(b) You must bring the suit within two years after the date of the HUD action you are suing about. However, if HUD has misrepresented any material information which it should have told you, you may bring suit within two years after you discover the misrepresentation.

(c) If the court decides that HUD has improperly refused to let you see or copy a record or to correct an error in a record, the court may make HUD pay a reasonable amount for your attorney fees and other court costs. HUD will also be liable for your reasonable attorney fees and court costs if the court decides that HUD has intentionally violated any of your rights under the Privacy Act or these regulations.

§ 16.16 Time limits on HUD in connection with requests and appeals.

(a) The HUD Privacy Act Officers and Privacy Appeals Officer will try to respond promptly to all requests and appeals. However, these regulations set certain time limits for a HUD officer to respond to your request or appeal. These time limits are stated in terms of "working days", which means that Saturdays, Sundays, or Federal holidays are not counted. The time will not start running against a limit until your request or appeal is received by the Officer who will act on it.

(b) The following table summarizes the initial time limits on HUD responses to the various types of requests or appeals which you may make. However, these initial time limits may be extended, as set forth in the regulation section cited in the table.

Type of Request or Appeal and Initial Time Limit on Response

1. Request for information, 10 working days (§ 16.5).
2. Request to see or copy; 10 working days (§ 16.8).
3. Reconsideration of request to see or copy; 30 working days (§ 16.10).
4. Request to correct; 10 working days (§ 16.12).
5. Appeal of denial of request to correct; 30 working days (§ 16.13).

(c) If you fail to include all of the information required by the regulations, the time will not start running against the limit until you have provided the necessary information.

§ 16.17 Processing of requests under Privacy Act of FOIA.

Whenever a Privacy Act Officer receives a request involving information contained in a HUD record, the Officer will decide whether to process the request under these regulations, under the Freedom of Information Act ("FOIA") regulations in Part 15, or under both. In making that decision, the Privacy Act Officer will follow these guidelines:

(a) If you make a Privacy Act request for information about you which is contained in a Privacy Act Records System, it will be processed as a Privacy Act request under these regulations.

(b) If you make a Privacy Act request for information about you which is not contained in a Privacy Act Records System, it will be processed as an FOIA request under the regulations in Part 15, if your request gives a description of the HUD document containing the information sufficient to enable HUD to find the document. In that case, the Privacy Act Officer will promptly refer your request to the appropriate officer for FOIA processing, and the FOIA processing time will run from the date that officer receives it.

(c) If you make an FOIA request for information about you which is contained in a Privacy Act Records System and you give enough information to identify the system, your request will be processed as a Privacy Act request under these regulations.

(d) If you make an FOIA request for information about another person which is contained in a Privacy Act Records System, it will be processed as an FOIA request under the regulations in Part 15. However, if the information is in a record classified as exempt by 5 U.S.C. 552 (see § 15.21(a) for a list of exempt classes of records), there would automatically be "need in the public interest" to withhold its release under § 15.21. In that case, HUD could only release the information to you with the consent of the other person, unless you are within one of the categories listed in § 16.19(a).

(e) If you make a Privacy Act request for information about another person, it will be processed under these regulations only if you are requesting the information as a parent, guardian or authorized representative of that person. Otherwise, the Privacy Act Officer will refer your request for FOIA processing as in paragraph (b) of this section, if your request gives a sufficient description of the HUD document containing the information.

§ 16.18 Fees.

(a) HUD will charge you for copies of HUD records made at your request under this Part, except as otherwise provided in paragraph (b), at the following rates:

(1) For each photocopy page, up to 8½" x 14", $0.10;

(2) For each page of computer printout (including carbon copies concurrently printed), $0.20.

(b) HUD will not charge you for copies if:

(1) The total charge for copies made at your request is $1.00 or less;

(2) The total charge for copies of your own personnel record made at your request is $5.00 or less;

(3) The copies are made by HUD without a request from you; or

(4) The Privacy Act Officer decides that it is in the public interest not to charge you.

(c) HUD will not charge you a fee for any of the following services performed in connection with your request for information or your request to see or copy HUD records:

(1) Searching for and retrieving of the records;

(2) Reviewing the records; and

(3) Transporting records and personnel.

(d) HUD will charge you for any special or additional services that are performed at your request, such as certification of records, special mailing arrangements, computer programming, or any computer use necessary to satisfy your request.

(e) You must pay any fees charged under this section either in cash or by check or money order payable to the "Treasurer of the United States". The Privacy Act Officer may require that you pay in advance or that your personal check be certified by your bank.

(f) If you receive a billing notice, you should send your payment to the office stated in the notice. Otherwise, you should send the payment to the Privacy Act Officer who is processing your request.

§ 16.19 Disclosure of HUD records to others.

(a) In general, HUD may not show or give a record about you to anyone other than you, unless you give your approval in writing. However, the Privacy Act (at 5 U.S.C. 552a(b)) allows HUD to release information about you to the following persons or agencies:

(1) To HUD officers and employees who need the record in performing their duties;

(2) To a person who has the right to see or copy the record under the Freedom of Information Act;

(3) For a routine use, as listed by HUD in the annual notice of systems of records it publishes in the Federal Register (see § 16.1(c)).

(4) To the Bureau of Census for planning or carrying out a census or survey or related activity;

(5) To a person who will use the record for statistical research or a report, if the person has assured HUD in writing that the record will be used only for that purpose and in a form in which individual persons cannot be identified;

(6) To the National Archives of the United States for safekeeping, or for deciding if the record is important enough to be kept by the government;

(7) To another Federal agency or to a state or local governmental body for authorized law enforcement purposes, if the request to HUD identifies the part of the record desired and states the reason for wanting the record;

(8) To a person who needs the information to protect your health or safety in an emergency situation (if HUD does this, it must notify you at your last known address);

(9) To either House of Congress or any appropriate committee;

(10) To the General Accounting Office, if needed for performing its duties; and

(11) To a person given a right to the record by a court order.

(b) HUD will keep a list of each release of a record under the Privacy Act, except for records released under an FOIA request or to a HUD employee who used the record in performing his or her duties. This list is a record which you can see or get a copy of under the procedure described in § 16.6, except that HUD does not have to disclose to you any releases made for law enforcement purposes.

(c) If a HUD record has been corrected upon your request *or* if you have filed a disagreement statement, HUD must send a copy of the corrected record or a notice of the disagreement statement to each person or agency (listed as required by paragraph (b)) who has seen or been given a copy of the record.

(d) If HUD releases any record about you in response to a subpoena, a Privacy Act Officer will try to notify you of the release as soon as the Officer learns that the subpoena has become a matter of public record.

§ 16.20 HUD records exempted from Privacy Act requirements.

(a) Under the Privacy Act, there are some records kept by HUD which HUD does not have to tell you about or let you see, copy or correct.

(b) HUD may not tell you about, or let you see, copy or correct, any HUD records which were prepared for law enforcement or national security purposes by an agency other than HUD when the other agency has stated in a regulation that such information should be exempt. If you request to see or copy any of these records, HUD will tell you that the records exist and give you the name and address of the agency which prepared the records. You will have to deal with that agency for further information concerning these records.

(c) Except as provided in paragraph (d) of this section, HUD does not have to tell you about, or let you see, copy or correct, any records compiled by HUD—

(1) For law enforcement purposes, if the records are contained in any of the following systems of records:

(i) Equal Housing Opportunity Complaints;

(ii) Investigation Files in the Office of the Inspector General; and

(iii) Legal Action Files.

(2) For the purpose of deciding suitability, eligibility, or qualifications of persons or firms for Federal contracts or access to classified material, if the records are contained in any of the following systems of records:

(i) Investigation Files in the Office of the Inspector General; and

(ii) Legal Action Files.

(d) HUD will tell you about, or let you see or copy, any record about you which you can get under the FOIA.

§ 16.21 Required statement about information collected by HUD.

(a) Under the Privacy Act, each Federal agency that asks you for information must tell you:

(1) Its legal right to ask for the information and whether the law requires you to give it;

(2) What major purposes the agency has in asking for the information; and how it will be used; and

(3) What will happen if you do not give the information.

(b) Since HUD is asking you to give certain information in a request for information (§ 16.5) and in a request to see or copy a HUD record (§ 16.6), HUD is required to inform you as follows:

(1) HUD's legal right to ask you for the information is based on the Privacy Act (5 U.S.C. 552a(f)). The law does not require you to give the information.

(2) The principal purpose for the information is to enable HUD to process requests for information and requests to see or copy HUD records. The information will be used only in processing those requests.

(3) If you do not give the information with your request, HUD will not be able to process or act on your request.

§ 16.22 Penalties.

(a) The Privacy Act states that any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses is guilty of a misdemeanor and subject to a fine of up to $5,000.

(b) Other criminal statutes, such as 18 U.S.C. §§ 494, 495, and 1001, contain penalties for persons who fraudulently attempt to obtain records from a Federal agency.

Issued at Washington, D.C., July 16, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

FR Doc. 80-21806 Filed 7-18-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 921, 922, 937 and 939

Surface Coal Mining and Reclamation and Enforcement Under Federal Programs for Massachusetts, Michigan, Oregon and Rhode Island

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Notice of intent to develop Federal programs regulations, for the States of Massachusetts, Michigan, Oregon and Rhode Island and request for public comments.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) believes that coal exploration is presently being conducted in the States of Massachusetts, Michigan, Oregon and Rhode Island. The Office is initiating actions to propose, promulgate and implement Federal programs for the regulation of coal exploration on non-Federal and non-Indian lands in these four States.

DATE: Public comments on this action must be received in the Administrative Record by August 5, 1980.

ADDRESS: Information and comments should be sent to: Office of Surface Mining, Room 153, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Donald F. Smith, Office of Surface Mining, U.S. Department of the Interior, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343-8032.

SUPPLEMENTARY INFORMATION: This notice provides information to assist the public in understanding the responsibilities, actions and procedures of OSM related to developing, proposing, promulgating and implementing Federal permanent regulatory programs for coal exploration. For important background information, the reader is referred to "General Background on the Permanent Regulatory Program", "Criteria for Promulgating Federal Programs" and "Contents of a Federal Program", previously published in 45 FR 32328, Friday, May 16, 1980. Section 701.5 and Parts 736, 776 and 815 of 30 CFR Chapter VII contain regulations pertinent to OSM's responsibilities for Federal Programs under the Surface Mining Control and Reclamation Act of 1977, (Act).

The Office is responsible for the standards and procedures necessary to establish a Federal program to regulate coal exploration on non-Federal and non-Indian lands within a State which is not implementing its own coal exploration regulatory program. Coal exploration activities include the gathering of environmental, geologic, physical and chemical data before beginning surface coal mining and reclamation operations. If these coal exploration activities substantially disturb the natural land surface, then special performance standards and design requirements are needed.

OSM believes coal exploration is currently occurring in Massachusetts, Michigan, Oregon and Rhode Island. OSM intends to promulgate proposed Federal Programs for these four States. OSM is considering limiting the Federal Programs to regulation of exploration, initially, although no final decision has been made in this regard. Detailed regulation of mining operations, as opposed to exploration, would not be promulgated until OSM becomes aware that mining may reasonably be expected to occur in the near future. To promulgate these four Federal Programs, OSM intends to publish in the **Federal Register**, as proposed rules, four proposed programs in August. The public will be given another opportunity to comment on those proposed programs, after they are published, in accordance with 30 CFR Part 736.

In recent litigation challenging the proposed program rules the U.S District Court of the District of Columbia remanded subsections (b)(3) and (b)(5) of 30 CFR Part 776.11, among other regulations. In re: *Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144, Opinion filed May 16, 1980). These subsections of the permanent program regulations address the notice of exploration, and specifically deal with the description and map of the exploration area and basis for entering the coal exploration area. Copies of this decision may be acquired at the addresses given below under "Availability of Copies".

This office is now soliciting comments from the public on whether Federal programs for the States of Massachusetts, Michigan, Oregon, and Rhode Island should be implemented, what special needs of these individual States should be considered in drafting the programs, and what the scope of the programs should be.

The Office believes that the action of proposing Federal Programs for these four States is not "significant" under the criteria of Executive Order 12044 and 43 CFR Part 14, and does not intend to publish a regulatory analysis. OFM is also soliciting comments with respect to this tentative determination of non-significance.

PUBLIC COMMENT PERIOD: The comment period announced in this notice will extend until August 5, 1980. All written comments must be received at the address given above by 5 p.m. on August 5, 1980. Comments received after that hour will not be considered at this stage.

The Office cannot insure that written comments received at or delivered during the comment period to any other location than specified above will be considered and included in the administrative record on this petition.

AVAILABILITY OF COPIES: Copies of 30 CFR Chapter VII and the Court opinion mentioned above are available and may be obtained in the following offices:

OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard East, Charleston West Virginia 25301; (304) 342–8125.

OSM Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902; (615) 637–8060.

OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204; (317) 269–2609.

OSM Region IV, 818 Grand Avenue, Scarritt Building, 5th Floor, Kansas City, Missouri 64106; (913) 758–2193.

OSM Region V, Brooks Tower Building, 1020 15th Street, Denver, Colorado 80202; (303) 837–5511.

Dated: July 11, 1980.

Carl C. Close,

Acting Director, Office of Surface Mining.

[FR Doc. 80-21717 Filed 7-18-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 701]

Establishment of Special Anchorage Area, Apollo Beach, Fla.

AGENCY: Coast Guard, DOT

ACTION: Proposed rule.

SUMMARY: At the request of the Tampa Sailing Squadron, the Coast Guard is proposing to establish a Special Anchorage Area at Apollo Beach, Florida. With the establishment of this Special Anchorage Area, owners of small pleasure craft would be relieved of the requirement to carry and display anchor lights while at anchor. This area would provide space well removed from channels and fairways to accommodate anchoring of local and transit pleasure craft.

DATES: Comments must be submitted on or before September 4, 1980.

ADDRESSES: Comments should be submitted to and are available for examination at the Office of the Commander, Seventh Coast Guard District, (m), 51 S.W. First Avenue, Miami, FL 33130.

FOR FURTHER INFORMATION CONTACT: Lieutenant Richard W. Harbert, Commander, Seventh Coast Guard District (m), 51 S.W. First Avenue, Miami, FL 33130, (305) 350–5276.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Each person submitting a comment should include their name and address, identify this notice (CGD 701), the specific section of the proposal in which their comment applies, and give reasons for the comment. Persons desiring acknowledgement that their comment has been received should enclose a stamped self addressed postcard or envelope. All comments received before the expiration of the comment period will be considered before final action is taken on the proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Lieutenant Richard W. Harbert, Project Manager, Marine Safety Division, Seventh Coast Guard District, and Lieutenant D. L. Brannon, Project Attorney, Legal Officer, Seventh Coast Guard District.

Discussion of Proposed Regulation.

At the request of members of the Tampa Sailing Squadron, Apollo Beach, Florida, the Coast Guard is proposing to establish a Special Anchorage Area at Bal Harbor, Apollo Beach, Florida. This organization has expressed a desire to have a Special Anchorage Area established at Bal Harbor to be used by pleasure craft. Also, it is the intention of the Tampa Sailing Squadron to obtain permission from the U.S. Army Corps of Engineers to place permanent mooring buoys in this area.

Establishing a Special Anchorage Area would allow vessels of not more than 65 feet in length to anchor in the area without displaying anchor lights. The area proposed is well removed from

fairways and would provide a safe location for anchoring.

An Environmental Assessment was completed in May 1980 which resulted in a finding of no significant impact on the quality of the human environment. Environmental information can be obtained from Lieutenant Richard W. Harbert, Marine Safety Division, Seventh Coast Guard District or E. J. Wolfe, Environmental Specialist, Seventh Coast Guard District.

The Coast Guard has determined that, in accordance with the Department of Transportation "Regulatory Policy and Procedures" (44 FR 11034), this amendment is not significant. The economic impact of this amendment will be minimal and accordingly, it does not warrant a full evaluation. The amendment imposes no economic burdens and benefits small vessel owners since they will not have to carry or display anchor lights, while anchored in the special anchorage.

In consideration of the foregoing, the Coast Guard proposes to amend Part 110, Title 33, Code of Federal Regulations by adding § 110.74b to read as follows:

§ 110.74b Apollo Beach, Florida.

Beginning at a point approximately 300 feet south of the Tampa Sailing Squadron at latitude 27°46'50.2" N., longitude 82°25'27.8" W.; thence southeasterly to latitute 27°46'45.6"N., longitude 82°25'23.2" W.; thence southwesterly to latitute 27°46'35.8" N, lontgitude 82°25'34.8" W.; thence northwesterly to latitute 27°46'39.9" N., longitude 82°25'39.6" W.; thence to the point of beginning.

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

Dated: July 17, 1980.

B. L. Stabile,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 80-21812 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

Experimental Areas and Research Natural Areas

AGENCY: Forest Service, USDA.

ACTION: Review of regulations under Executive Order 12044.

SUMMARY: The Forest Service under provision of Executive Order 12044, dated March 23, 1978, is reviewing regulation 36 CFR 251.23, Experimental Areas and Research Natural Areas, for currency and possible revision. The current regulation is printed herein to inform the public of its content and to aid in commenting.

DATE: Written comments must be received on or before September 19, 1980.

ADDRESS: Comments should be addressed to: Chief, Forest Service, P.O. Box 2417, Washington, D.C. 20013.

FOR ADDITIONAL INFORMATION CONTACT: Dr. F. Bryan Clark, Director, Timber Management Research, (Phone 703-235-8200).

SUPPLEMENTARY INFORMATION: Regulation 36 CFR 251.23 directs the Chief of the Forest Service to establish experimental forests, experimental ranges, and research natural areas on lands of the National Forest System.

No large number of new experimental forests or ranges are anticipated in the immediate future. The last experimental forest was established in 1971, and the last one disestablished was in 1972.

Establishment of research natural areas is expected to increase. The trend in newly established areas suggests that aside from Alaska, at least eight new research natural areas will be established each year for the next several years. New areas have averaged about 1,015 acres each. During the next several years approximately 200 candidate areas in Alaska will be evaluated for suitability for the Forest Service network of research natural areas.

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "not significant."

36 CFR 251.23 currently reads as follows:

§ 251.23 Experimental areas and research natural areas.

The Chief of the Forest Service shall establish and permanently record a series of areas on National Forest land to be known as experimental forests or experimental ranges, sufficient in number and size to provide adequately for the research necessary to serve as a basis for the management of forest and rangeland in each forest region. Also, when appropriate, the Chief shall establish a series of research natural areas, sufficient in number and size to illustrate adequately or typify for research or educational purposes, the important forest and range types in each forest region, as well as other plant communities that have special or unique characteristics of scientific interest and importance. Research Natural Areas will be retained in a virgin or unmodified condition except where measures are required to maintain a plant community which the area is intended to represent. Within areas designated by this regulation, occupancy under a special-use permit shall not be allowed, nor the construction of permanent improvements permitted except improvements required in connection with their experimental use, unless authorized by the Chief of the Forest Service.

(30 Stat. 35, amended, 16 U.S.C. 551)

Dated: July 14, 1980.

R. Max Peterson,

Chief.

[FR Doc. 80-21770 Filed 7-18-80; 8:45 am]

BILLING CODE 3410-11-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM80-2]

Proposed Rulemaking

July 21, 1980.

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: These proposed rules contemplate an addition to the Commission's Rules of Practice and Procedure (39 CFR 3001 *et seq.*) to streamline procedures for cases filed by the Postal Service as experiments under section 3623 of the Postal Reorganization Act. (39 U.S.C. 3623).

On September 14, 1979, a Notice of Conference was published (44 Fed. Reg. 53545) inviting parties to attend a conference and/or submit comments on the issue of establishing expedited procedures for experimental proposals. The conference was held on September 26, 1979, and, as indicated in the Notice, a transcript of the conference as well as written comments filed at that time are made part of the record of this rulemaking proceeding. Notice of parties that submitted written comments subsequent to the conference was published on October 22, 1979 (44 Fed. Reg. 60757).

Commissioner O'Doherty dissents from this Notice.

DATES: Comments responsive to our Notice of Proposed Rulemaking should be submitted by August 20, 1980.

ADDRESSES: Comments should be directed to David F. Harris, Secretary, Postal Rate Commission, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268; (202) 254–3824.

SUPPLEMENTARY INFORMATION: This Notice of Proposed Rulemaking is issued in an effort to streamline the processing of mail classification change requests made by the Postal Service under 39 U.S.C. 3623 which the Service denominates as experimental in character. Until the decision in *United Parcel Service* v. *U.S. Postal Service*, 604 F.2d 1370, (3d Cir. 1979) it had never been decided by an appellate court whether an experimental new mail classification or new service was required to be submitted to the Commission for a recommended decision. The court held that it was. The Commission recognizes that the prospect of experimental service filings by the Service may well demand a somewhat different set of procedures within the general procedural framework set up by statute (39 U.S.C. 3624). There are two primary reasons for this belief. First, we are cognizant of the special responsibility imposed on the Service by 39 U.S.C. 403(a) to "plan, develop, promote, and provide adequate and efficient postal services." We think this statutory command carries with it an implication that innovative services responding to apparent public need are to be favored. Second, we recognize that when it embarks on a new type of service the Postal Service may indeed lack historical data, or even the basis for a reliable estimate, concerning costs, volumes, revenues, operational characteristics and procedures, or other matters which as a matter of course would be explored on the basis of such data and sound estimates in a proceeding concerning an existing service or rate.

The tentative conclusions we draw from these considerations are, first, that expedition of our regulatory proceedings is particularly appropriate in the area of experimental services and, second, that our data filing requirements for the more general type of mail classification proceeding may not be well suited to an experimental case. Before summarizing the proposed rules, however, we believe that the contemplated changes should be placed in context.

In recent decisions by or involving the Commission, the term "experiment" has been used in more than one sense. Upon occasion [1] we have approved a mail classification change on an "experimental" basis even though the Postal Service did not characterize the change as an experiment in its original filing. We have done this in the belief that a change which has evident merit but as to which the record leaves some questions unresolved is best approved for a limited term with a view to revisiting it when the needed data have been acquired. The courts have generally approved this means of resolving a tension between the need for new or changed services and the requirement of complete justification on the record.[2] It has been pointed out that agencies generally have the authority, by statute, to take any action necessary and proper to carry out their statutory missions. The Postal Rate Commission, like other regulatory agencies, has in its governing statute such a "necessary and proper" clause. *See* 39 U.S.C. 3603.

It is not with these cases, however, that the present Notice is concerned. By their nature, these cases become "experimental" in character only after the record has been made and it is seen that significant questions remain unanswered. Instead, the present docket is limited to those filings under section 3623 which the Postal Service itself denominates as experimental.

The distinction between these two types of cases being primarily in the fact that one develops the characteristics of an experimental case only as the record is assembled while the other is avowed of an experimental nature *ab initio*, it is logical for us to address as part of the instant rulemaking the filing requirements of our rules—that is, the listing of materials we require the Postal Service to supply along with its request for a recommended decision on changes in the Domestic Mail Classification Schedule. However, we have also addressed certain questions of procedure likely to arise after the Service's filing is made.

Any rules made in this docket to govern the conduct of experimental mail classification cases must, of course, take account of the procedural constraints under which the Commission operates. Section 3624(a) of the Postal Reorganization Act [39 U.S.C. 3624(a)] explicitly requires that any proceeding under section 3623 include "opportunity for a hearing on the record under sections 556 and 557 of [the Administrative Procedure Act]." In other words, a trial-type hearing is statutorily required in all classification cases, including those of an experimental nature, unless all parties consent to the conduct of the proceedings off the record (an alternative provided for by section 3623(b)(5)). It is certainly arguable that at least in some experimental cases the notice-and-comment procedures of section 553 of the Administrative Procedure Act would be adequate, and the Commission has in fact requested legislation allowing those procedures to be used in classification cases where the rights of the parties would be sufficiently safe-guarded by a notice-and-comment proceeding. At this point, however, we are unable as a matter of law to propose the substitution of that mechanism for the existing trial-type hearing requirement.

We do feel however that the procedures for experiments can be streamlined with appropriate safeguards. Consequently, we have proposed as subsection (b) of proposed 39 CFR 3001.67, "Requests Involving Experimental Changes," to allow the Commission to reserve the right to require that the normal procedures for non-experimental cases under section 3623 be used. This subsection lists several criteria for the Commission to consider in determining whether the procedures for experiments may be used. Similarly our proposed subsection (c) of 39 CFR 3001.67 provides an opportunity for parties to submit to the Commission representations that a proposal should not be considered as an experiment.

Having provided for these safeguards, we have devised several mechanisms to expedite the statutory hearing procedure. Foremost among these could be a procedure for indentifying at the outset any issues of fact which, as a matter of basic fairness, require a trial-type hearing. We turn for guidance in this area to a frequently-cited judicial expression of views on the proper means of limiting or dispensing with potentially unnecessary evidentiary hearings in the context of a statute requiring "opportunity for hearing." In *Citizens for Allegan County, Inc.* v. *EPC*, 414 F.2d 1125 (D.C. Cir. 1969), it is stated that:

> [T]he right of opportunity for hearing does not require a procedure that will be empty sound and show, signifying nothing. The precedents establish, for example, that no evidentiary hearing is required where there is no dispute on the facts and the agency proceeding involves only a question of law.

414. F.2d at 1128 (footnote omitted). The Court went on to draw an analogy with the summary judgment procedure employed by the judiciary—with certain cautions, however, regarding the limits of appropriate utilization of even that traditional mechanism.

When we examine the potential utility of the issue-limiting procedure in the

[1] See Electronic Mail Classification Proposal, 1978, PRC Op. MC78–3, pp. 269–75.

[2] *See, e.g.*, Network Project v. FCC, 511 F.2d 786 (D.C. Cir. 1975); United Telegraph Workers v. FCC, 436 F.2d 921 (D.C. Cir. 1970).

context of mail classification experiments, we are initially impressed by the fact that the basic question is what is known (or thought to be known) by the Postal Service as proponent and by other parties as supporters or opponents of the proposal. By nature, an experiment involves unknowns. If a new service is proposed, the determination of the market for it is a matter of estimate and prediction at best and of simple risk-taking at worst. If a new or changed service requires operations not theretofore performed by postal personnel, operational problems may not have been foreseen; the effect of these on labor time and hence costs will therefore also be unpredictable. Of course, analogies may be drawn from existing services offered by the Postal Service or others, and proxies for the labor time and other cost factors may sometimes be found in existing classes of mail or postal services. But in areas where hard data or reasonable proxies are unavailable, and prediction and speculation take their place, we note the possibility that evidentiary hearings may be superfluous.

We recognize, of course, that these matters are likely to be in dispute; the question is whether the dispute is genuinely one of fact. If the data—even though incomplete or drawn from an analogous area rather than from the not-yet-implemented new operation—are of such a character as to support a firm conclusion as to cost, volume, or other pertinent issues and a dispute arises as to the correctness of the conclusion the Postal Service seeks to draw, then there is an issue of fact to be resolved by evidentiary hearings. If, on the other hand, the controversy revolves around rival estimates alone, and the only conclusion possible is that one method of estimation seems more reliable than another, we believe the dispute is one that can be resolved without trial-type hearings.[3]

In this respect, we have proposed measures for parties to submit, at the earliest possible date, statements of the issues that they perceive in the case. Parties are required to state, with specificity, those issues which they believe involve genuine issues of material fact requiring a trial-type hearing. The proposed rules allow for responsive statements as well as for initial statements. ["Requests Involving Experimental Changes—Procedures for Limitation of Issues." [proposed 39 CFR 3001.67a(b)].

The determination whether any particular issue in an experimental case would require a trial-type hearing would require an individualized judgment by the Commission. It is the purpose of the proposed rules to provide a framework for those judgments, rather than mechanically to sort all possible issues into "factual" and "nonfactual" categories. In this regard, the proposed rules provide for the Commission to make a determination, after the exchange of statements of issues, as to those issues that require a trial-type hearing. The proposed rules require the Commission to issue an order to that effect and to include, in that order, the procedures to be followed for disposing of those issues that do not require a formal hearing. These procedures are set out in subsection (c) of our proposed 39 CFR 3001.67a, which suggests several procedures that could be used for those issues not found to be genuine issues of material fact. This subsection provides further that with respect to the use of any informal procedures, the Commission will, or course, consider the needs of expedition and fairness, in accordance with § 3624(b) of the Act.

With respect to the materials to be filed by the Postal Service at the initiation of an experimental case, we believe it unproductive (if not indeed impossible) to attempt to state in advance that certain categories of information need never be filed even if available. Our existing rule 64 (39 CFR 3001.64) calls for the filing of a substantial quantity of data, which may be expected to be available to the Service in all but exceptional circumstances when nonexperimental classification changes are at issue. As we noted above, however, it is the nature of experiments to deal with unknowns. Therefore, the difference between the normal classification filing and the filing involving an experiment would appear to be that in the latter case the nonavailability of information called for by rule 64 should normally not raise a question as to the desirability of the proposal. In other words, it is plausible to suppose that when the Service seeks permanent (nonexperimental) authority for a classification change an opponent might reasonably argue that the nonavailability of data called for by rule 64 demonstrates a deficiency in the Service's support for its case. In the case of an experiment, however, we would anticipate that the circumstances in which such an argument could be made would be rare and exceptional. Consequently, the principal change we are proposing in the filing requirements of rule 64 is to specify that, in experimental cases, the nonavailability of information, when explained as required by rule 64(a)(2)(i), (ii), and (v),[4] shall not, except in extaordinary circumstances denominated by the objecting party, be urged against the experimental proposal. The effect of this rule will be to acknowledge the experimental nature of the proposal and to eliminate from consideration most if not all controversy over alleged deficiencies in the Service's existing collection of data. Proposed rule 67b, "Requests Involving Experimental Changes—Unavailability of Data," does provide, however, that if the Postal Service claims that the experimental nature of the request bears on the unavailability of data, the Service must explain this nexus in detail.

We would emphasize at this point that if the present rules are adopted and experience under them demonstrates that certain categories of rule 64 data are uniformly unavailable in experimental contexts, we would not rule out the possibility of explicit exclusion of such categories from the filing requirements. However, we believe the time has not yet arrived for that determination.

A final characteristic of the experimental category of classification proposals is that, as the Officer of the Commission (OOC) states in his Memorandum of October 5, 1979, "the main purpose of an experiment will be to gather data." OOC Memorandum, p. 15. The plans for gathering the data whose unavailability originally elicited an experimental rather than an ordinary classification proposal are thus an integral part of the proposal itself.

Thus, in the proposed rules, we would require a statement of the means the Service proposes to use to obtain the rule 64 data not available at the time of filing, or else an explanation of why those data seem to it unnecessary. If the Commission finds that the Service has not adequately explained why the data is unnecessary, our proposed rules permit the Commission to require, by order, that the data be collected. If there are other data, not called for by rule 64, which the Postal Service intends to collect during the course of the experiment, it would also be required to describe in detail those data-gathering efforts in its initial filing. In this way, it will be possible for us and the parties to arrive at conclusions regarding two questions: (i) is the experiment soundly designed to measure the variables that need to be measured; and (ii) at the

[3] *A fortiori*, of course, issues of law or policy can be resolved on memoranda and briefs.

[4] Subparagraphs (iii) and (iv) of § 64(a)(2) deal with the potential collection of the unavailable information, and the issues they present are dealt with below.

termination of the experimental phase, will there be appropriate data available for a § 3623 determination on permanent changes to the DMCS?

Since one of the main purposes of this rulemaking is the expediting of experimental cases, we have also proposed a time schedule for those cases in which delay may become a practical problem for the Service. As the District Court for the Eastern District of Pennsylvania has ruled, a filing under § 3623, if it inseparably involves rate changes, is subject to the 10-month decisional deadline of § 3624(c)(1).[5] Where this condition is not met, the Postal Service is at liberty to institute classification changes on a temporary basis under § 3641(e), which imposes only a 90-day waiting period. As a practical matter, even under expedited procedures, we believe that the institution of temporary changes in 90 days would generally represent the Service's first opportunity to implement a proposal. Rate-related or "hybrid" cases subject to the 10-month deadline, therefore, constitute the main problem with respect to rapid expedition. In those cases, we are proposing a decisional schedule of 150 days. In doing so, we do not purport to affect the Service's authority to impose temporary changes, which remains subject to § 3641 of the Act and which we can affect only in limited circumstances [6] defined by law. Rather, we are attempting to comply with the policy of expediting experimental cases, and we will make every effort to give them priority over other classification matters.[7]

For the above reasons, we propose to add the following new sections to 39 CFR § 3001:

§ 3001.67 Requests involving Experimental Changes.

(a) This section and sections 3001.67a–3001.67d apply in cases where the Postal Service requests a recommended decision pursuant to § 3623 of the Postal Reorganization Act and denominates the new service or change in an existing service as experimental in character. These sections do not apply to the situation in which a request not denominated as experimental by the Postal Service, either at the time of its filing or subsequently, is found to be justified by the Commission only on an experimental basis, following analysis of the record made in the proceedings on such a request.

(b) This section and sections 3001.67a–3001.67d are not intended to substitute for the rules generally governing requests for changes in the Domestic Mail Classification Schedule in cases where the treatment of the proposed changes as experimental is not justified by the character of those changes. The Commission reserves the right, in appropriate cases, to require that the normal procedures prescribed for nonexperimental cases under § 3623 be used. In determining whether the procedures for experimental cases may be used in a particular case, the Commission will consider:

(1) The novelty of the proposed change;

(2) The magnitude of the proposed change, including its effect on postal costs, postal revenues, mailing costs and practices of users of the mails, and persons or firms offering services competitive with or alternative to the service offerings of the Postal Service: and

(3) The ease or difficulty of generating or gathering date with respect to the proposed change.

(c) In the case of a proposal denominated as an experiment by Postal Service, the Commission will entertain representations by parties to the case that the proposal should not be considered as an experiment and should follow the normal mail classification change procedures. The Commission does not contemplate entertaining representatives by parties to a case filed under the normal procedures that the matter should be treated as an experiment under this section and sections 3001.67a–3001.67d.

§ 3001.67a Requests involving experimental changes—Procedures for limitation of issues.

(a) The purpose of this section is to provide a mechanism for the limiting of issues of which a trial-type hearing is required. It recognizes that in a proceeding properly designated as experimental under § 3001.67, some issues will be appropriate for determination on the basis of a less formal type of presentation and counterpresentation. It is the policy of this section to identify these issues at the earliest possible time and to employ less formal procedures to resolve them where the interests of expedition will be served thereby.

(b) At the earliest possible time following the filing of a request designated as experimental, or following the determination of any question as to whether such designation is proper, holding that such designation is proper, the parties will be required to file statements of the issues they perceive in the case. Each such statement shall designate with particularity those issues the party believes to be or involve genuine issues of material fact. Any party designating an issue as a genuine issue of material fact wholly or in part of the Postal Service's statement that data called for by § 3001.64 are unavailable shall comply with the requirements of § 3001.67b. Responsive statements will be permitted within 10 days of the filing of initial statements.

(c) Following the exchange of statements of issues called for by subsection (b), the Commission will determine which issues constitute genuine issues of material fact and noncomitantly order the limitation of trial-type hearing procedures to those issues. The order issued for this purpose will also set forth to the greatest extent feasible the procedures to be followed in disposing of issues not found to be genuine issues of material fact. According to the nature of the individual issue, these procedures may include

(1) Filing of written comments and reply comments;

(2) Conference procedures, followed or accompanied by the filing of written comments and reply comments; and

(3) Briefing and argument.

In determining the procedures to be followed with respect to issues not requiring a trial-type hearing, the Commission will seek to accommodate the needs of expedition and procedural fairness in accordance with § 3624(b) of the Act.

§ 3001.67b Requests involving experimental changes—Unavailability of data.

If the Postal Service believes that data required to be filed under § 3001.64 are unavailable, it shall explain their unavailability as required by § 3001.64(a)(2)(i), (ii), and (iv). In particular, if the experimental character of the request bears on the unavailability of the data in question, the Postal Service shall explain in detail the nexus between these circumstances. A satisfactory explanation of the unavailability of data will be grounds for excluding from the proceeding a contention that the absence of the data should form a basis for rejection of the request, unless the party desiring to

---

[5] United Parcel Service v. U.S. Postal Service, 475 F. Supp. 1158 (E.D. Pa. 1979), affirmed, 615 F. 2d 102 (3d Cir. 1980).

[6] See 39 U.S.C. § 3624(c)(2). This provision has been invoked once since its enactment in 1976, and we trust that occasions for its use will continue to be rare.

[7] General rate cases filed under § 3622 are also, obviously, matters desrving of expedition. It would be helpful if the Postal Service, in planning its filings with us, would recognize the difficulties inherent in conducting more than one expedited proceeding at a time.

make such contention (a) demonstrates that, having regard to all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the data which are unavailable, or (b) demonstrates other compelling and exceptional circumstances requiring that the absence of the data in question be treated as bearing on the merits of the proposal.

§ 3001.67c Requests involving experimental changes—Plans for data collection.

(a) In any instance in which the Postal Service designates as unavailable data called for by § 3001.64, it shall, as part of its initial filing under that rule, either

(1) describe with particularity the means it proposes to employ to collect those data, or

(2) state with particularity the reasons it believes establish that such data are unnecessary.

The Commission may by order require data to be collected during the course of the experiment which the Postal Service has not planned to collect, if it finds that a statement under paragraph (2) of this subsection does not justify the omission to collect the particular data in issue.

(b) In the case of data which are not required to be filed under § 3001.64, but which the Postal Service intends to collect during and for the purposes of the proposed experimental change, the Postal Service shall include in its initial filing a detailed description of the data involved, the uses to which they would be put, and the methods to be employed in collecting them.

§ 3001.67d Requests involving experimental changes—Time limit.

The Commission will treat cases falling under §§ 3001.67–3001.67d as subject to the maximum expedition consistent with procedural fairness. The schedule for adoption of a recommended decision will therefore be established, in each such case, to allow for issuance of such decision not more than 150 days from the determination of any issue as to the propriety of experimental treatment under § 3001.67(b) and (c) in a sense favorable to such treatment, or from the date of the filing of the request, whichever occurs later. Nothing in this section shall be construed to affect the rights of the Postal Service or of the parties with respect to the temporary implementation of changes pursuant to § 3651 of the Act.

David F. Harris,

Secretary.

FR Doc. 80-21883 Filed 7-18-80; 8:45 am]

BILLING CODE 7715-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

State Medical Facilities Plan; Withdrawal of Proposed Rulemaking

AGENCY: Public Health Service, HHS.

ACTION: Withdrawal of Proposed Rulemaking.

SUMMARY: This notice withdraws the proposal to add Subpart B, "State Medical Facilities Plan," to Part 124 of Title 42 of the Code of Federal Regulations, published on February 2, 1979 (44 FR 6841–7). This withdrawal is based on the repeal of the statutory authority for this regulation. Facilities plans must now be included in State health plans as a separate component. As a result of this distinct consideration of facilities, as well as elimination of formula funding to States, it is no longer necessary to have a separate State medical facilities plan.

FOR FURTHER INFORMATION CONTACT: Dr. Florence B. Fiori, Director, Bureau of Health Facilities Financing, Compliance, and Conversion, Health Resources Administration, Department of Health and Human Services, 3700 East-West Highway, Hyattsville, Maryland 20782, (301) 436–7700.

SUPPLEMENTARY INFORMATION: Section 202 of Pub. L. 96–79 repealed Part A of Title XVI, "Health Resources Development," of the Public Health Service Act, including sections 1602 and 1603, 42 U.S.C. 300o–1 and 300o–2. Section 1603 had required the development of a State medical facilities plan as prerequisite for the award within a State of any assistance under Parts A, B and C of Title XVI. Much of the information regarding existing facilities and needs which section 1603 required State medical facilities plans to contain must now be included as a separate component of a state health plan under section 1524(c)(2) of the Public Health Service Act (as amended by Pub. L. 96–79), so a separate State medical facilities plan is no longer required.

Accordingly, the Secretary has determined that the proposed Subpart B of Part 124 of Title 42 is not authorized. Therefore, the proposal published on February 2, 1979 (44 FR 6841–7), to add Subpart B, "State Medical Facilities Plan," to Part 124 of Title 42 of the Code of Federal Regulations is withdrawn.

Dated: May 19, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 11, 1980.

Nathan J. Stark,

Acting Secretary.

[FR Doc. 80-21764 Filed 7-18-80; 8:45 am]

BILLING CODE 4110-83-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Subpart 42.9

Waiver of Government Surveillance Requirements

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability and request for comment on draft Federal acquisition regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment, a segment of the draft Federal Acquisition Regulation regarding Waiver of Government Surveillance Requirements.[1] Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before September 10, 1980.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William J. Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William Maraist (202) 395–3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section

[1] Filed as part of the original document.

or part available for review and describe any new policies therein.

The following subpart of the draft Federal Acquisition Regulation is available upon request for public and Government agency review and comment.

PART 42—CONTRACT ADMINISTRATION

Subpart 42.9—Waiver of Government Surveillance Requirements

This subpart prescribes policies and procedures under which contractor organizations operating predominantly in a competitive environment may obtain a waiver of specific government surveillance requirements. Similar coverage (CWAS) is found only in the DAR. The DAR coverage provides for the waiver of certain Government administrative controls, including determinations of reasonableness of specified indirect costs. A contractor may qualify for this waiver if it achieves a 75 percent or more rating based on the amount of its commercial sales and the cost risk assumed in its contracts with the Government.

The FAR coverage revises the DAR material and adds new material based on proposed Section 509 of S. 5, 96th Congress. The new coverage is similar to CWAS, but is less complex and more appropriate for Government-wide application. The FAR waiver applies to (1) determinations of reasonableness of all indirect costs, (2) reviews of contractor purchasing systems, (3) reviews of contractor compensation structures, insurance and pension plans, and estimating systems, and (4) reviews or surveillance actions prescribed by agency acquisition regulations that the agency head determines are unnecessary for waiver-qualified contractors.

To qualify, a profit center must meet the following two-part test: (1) More than 75 percent of the profit center's total incurred costs during its most recently completed fiscal year must have been incurred under commercial or competitive Government contracts; and (2) during its most recently completed fiscal year, the profit center must not have incurred costs exceeding $10 million under Government contracts that do not qualify under the test in (1). The $10 million limit is imposed consistent with S. 5 because, even if the contractor does meet the 75 percent test of competitiveness, the Government's interest and risk are high enough to warrant full surveillance.

The DAR coverage permits contractors to qualify their profit centers individually or collectively, while S. 5 and the FAR require centers to qualify individually. Basic changes to the DAR derive from the proposed S. 5 and the associated Senate Committee on Governmental Affairs Report on the predecessor bill in the 95th Congress (S. 1264).

Dated: July 15, 1980.

LeRoy J. Haugh,

Associate Administrator for Regulations and Procedures.

[FR Doc. 80-21810 Filed 7-18-80; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration, Materials Transportation Bureau

49 CFR Parts 173 and 179

[Docket No. HM-175]

Shippers: Specifications for Tank Cars

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration (the Bureau), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: In an effort to reduce the risk of puncture or rupture of existing DOT Specification 105 tank cars in an accident environment, the Bureau is considering development of proposed regulations to require retrofitting DOT 105 tank cars to meet the puncture and thermal protection levels currently required for DOT Specification 112 and 114 tank cars. The Bureau is also considering development of proposed regulations for puncture and thermal protection applicable to other existing and new DOT Specification tank cars that carry the same hazardous materials as 105 tank cars.

DATE: Comments must be received on or before October 16, 1980.

ADDRESS: Comments should be addressed to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket number and notice number and be submitted in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Leavitt A. Peterson, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, (202) 426-0897.

SUPPLEMENTARY INFORMATION: The Bureau and the Federal Railroad Administration (FRA) feel that previously completed regulatory actions for new and existing DOT Specification 112 and 114 tank cars together with regulatory actions now in process for DOT Specification 105 tank cars will significantly alleviate the consequences of major accidents involving hazardous commodities. Thus far, there has been no recorded accident in which the HM-144 mandated puncture or thermal protection systems have failed. Nevertheless, these safety improvement actions and proposed actions have not directly addressed several safety concerns in the total system of rail transport of hazardous commodities.

The Bureau and FRA now propose to collect additional information which will allow a comprehensive evaluation of the need, means, and cost to:

1. Extend the specified puncture and thermal protection levels of DOT Specification 112 and 114 tank cars (HM-144) to existing DOT Specification 105 tank cars that transport the same commodities as 112 and 114 tank cars;

2. Extend the specified puncture and thermal protection levels of DOT Specification 112 and 114 cars (HM-144) to existing DOT Specification 105 tank cars that transport other hazardous commodities such as ethylene oxide, butadiene, poisons, and combustible and flammable liquids or solids.

3. Extend the specified puncture and thermal protection levels of the DOT Specification 112 and 114 tank cars (HM-144) to other new and existing DOT Specification tank cars that carry the same commodities as DOT Speification 105 cars, e.g., DOT Specification 111 tank cars.

The rules promulgated by the Bureau in HM-144 were formulated as performance standards, setting minimum levels of protection from impact and from fire for flammable compressed gasses and anhydrous ammonia carried in DOT Specification 112 and 114 tank cars. It can be argued that these performance standards should be the minimum standards for all tank cars carrying those products. It can be further argued that the same level of protection should be afforded for other equally hazardous commodities that pose a similar degree of risk. The Bureau and the FRA believe that the issues raised by these arguments need to be more fully explored and analyzed.

Unlike the DOT Specification 112/114 tank cars, the DOT Specification 105 tank cars cannot be treated as a uniform single group. They are composed of many sub-groupings which differ from each other in terms of shell and jacket thickness, insulating system properties, structural features, type and capacity of

pressure relief systems, fittings, pressure rating and amount of the various ladings they transport. Generally, the sub-groupings exist because each has been designed to accommodate a specific, rather narrow set of hazardous commodities. Even within each sub-grouping, there are differences in design due to evolutions over the past forty years or because of the exercise of manufacturing options.

Although 105 tank cars carry the same or equally hazardous commodities as 112 and 114 tank cars, some of the sub-group 105 tank car designs provide less puncture resistance and thermal protection than 112 and 114 cars. The deficiencies were acknowledged during the 112 and 114 regulatory proceedings and in subsequent hearings and testimony to Congress.

In a notice of proposed rulemaking (NPRM) published elsewhere in this issue of the **Federal Register**, the Bureau is proposing to require the equivalent tankhead and thermal protection specified for 112 and 114 tank cars in HM-144 to be provided on newly built 105 tank cars. The proposed rule would also require that shelf couplers be installed on all 105 tank cars by December 31, 1981, and installed on all other DOT specification tank cars by December 31, 1984. Retrofit of existing tank cars for tank head and thermal protection is covered by this notice.

While there does not appear to be any major technical obstacles to retrofitting those 105 cars which are identified as needing additional head and thermal protection, there may be unique problems in assessing the degree of protection now possessed when compared to the performance standards of HM-144 and the magnitude of economic burdens associated with retrofitting, retiring, or changing the usage of certain existing 105 cars.

This ANPRM contains several subject areas in which the Bureau and FRA are soliciting additional facts from the public, railroads, shipping industries, tank car builders, leasing companies, railroad operating unions, and other involved safety interest groups and associations. The additional information which is collected will be used in resolving the issues in retrofitting existing 105 cars and dealing with other DOT Specification cars which carry the same hazardous commodities.

The NPRM contains data on some major accidents in which DOT Specification 105 cars have been involved. It is clear that several catastrophic accidents have occurred involving 105 cars and that both commodities covered under HM-144 and other hazardous commodities not covered under HM-144 have been released. Ethylene oxide and chlorine are examples of commodities that are not handled in 112 and 114 cars but pose a serious threat and have a documented accident history. In addition, DOT Specification 111 cars may also carry hazardous commodities, ethylene oxide for example. The Bureau is especially interested in obtaining more detailed information on major accidents related to 105 tank cars and other DOT Specification tank cars that carry the same hazardous commodities as 105 cars. Flammable compressed gases, anhydrous ammonia, chlorine, nitrosyl chloride, sulfur dioxide, sulfuryl fluoride, acrolein, pyrophoric liquids, metallic sodium, hydrofluoric acid, hydrocyanic acid, nitrogen tetroxide, motor fuel antiknock compounds, butadiene, cryogenic liquids and ethylene oxide are specific commodities for which data is desired. Specific written comments are requested for the following questions and topic areas.

1. Please provide details of accidents experienced with the commodities noted above according to DOT Specification car and sub-group tank car design characteristics.

- 1.1 Date of each accident.
- 1.2 Location—State, nearest terminal, milepost, operating railroad.
- 1.3 Summary narrative of significant events.
- 1.4 Deaths due to release of hazardous material.
- 1.5 Injuries due to release of hazardous material.
- 1.6 Dollar damage estimate.
- 1.7 People evacuated.
- 1.8 Times of significant events.
- 1.9 Car number(s).
- 1.10 ICC/DOT specification type of car(s).
- 1.11 Date built.
- 1.12 Type and thickness of jacket(s).
- 1.13 Type and thickness of insulation materials.
- 1.14 Thickness of tank head(s), lower and upper halves.
- 1.15 Thickness of tank shell(s).
- 1.16 Tank and jacketing materials—type(s) of steel.
- 1.17 Type(s) of underframe(s).
- 1.18 Capacities in U.S. gallons.
- 1.19 Lading(s).
- 1.20 Safety valve type(s).
- 1.21 Safety valve setting(s), PSIG (start to discharge and full opening).
- 1.22 Type of damage sustained:
  - 1.22-1 Head punctures (location).
  - 1.22-2 Shell punctures (location).
  - 1.22-3 Fittings.
  - 1.22-4 Rupture due to fire exposure.
  - 1.22-5 Burn hole.
  - 1.22-6 Crack initiation location and propagation.
  - 1.22-7 Amount of product released.
  - 1.22-8 Distance pieces hurled.
  - 1.22-9 Distance covered by vapor cloud.

The Bureau and FRA have estimated the protection levels of various sub-groupings of DOT Specification 105 cars as compared to the levels mandated for 112 tank cars. The criteria utilized for the puncture and thermal protection assessment gave credit for shell thickness, jacket thickness and insulation characteristics. The following table is a summary of the estimate made, and illustrates one possible scheme for rating the comparative protection levels of existing 105 tank cars.

BILLING CODE 4910-60-M

Summary of Estimated Protection Provided by Broad 105 Car Classification Sub-Groupings

Broad Sub-Groupings	Major Commodity	Maximum Number of Cars	Description				Commodity Subject to HM-144 Requirement	Estimated Status[1]	
			Insulation	Jacket	Head	Total		Head	Thermal
A	Chlorine	5200	4" Urethane	2/16"+	13/16"+	15/16"+	No	2	1
B	Chlorine	2700	4" Cork	2/16"+	13/16"+	15/16"+	No	2	2
C	LPG	2600	2-4" G.F.	2/16"+	11/16"+	13/16"+	Yes	1	1
D	Anhydrous Ammonia	1300	2-4" G.F.	2/16"+	9/16"+	11/16"+	Yes (Head Only)	1	1
E	LPG & Anhydrous Ammonia	1600	2-4" G.F., Urethane, Styrofoam	8/16"-	9/16"+	17/16"	Yes	2	1
F	VCM & Other Compressed Gasses	3500	2-4" G.F.	2/16"+	9/16"+	11/16"+	Yes	1	1
G	VCM & Other Compressed Gasses	1100	2-4" Mineral Fiber	8/16"-	9/16"+	17/16"	Yes	2	2
H	Motor Fuel Anti-knock	1700	4" Cork	3/16"+	12/16"+	15/16"+	No	2	2
I	Ethylene Oxide	1000	2-4" G.F.	2/16"+	10/16"+	12/16"+	No[2]	1	1
J	Poisons A	250	4" Cork	2/16"+	14/16"+	16/16"+	No	2	2
K	Flammable Liquids & Solids	900	2-4" G.F.	2/16"+	10/16"+	12/16"+	No[2]	1	1
L	Other	2500	Various		Various		No[2]	1	1

[1] Compared to HM-144 Minimum Requirements:
1 = Significantly less protection than HM-144 requires.
2 = Reasonably equivalent to protection required under HM-144.

Key: LPG = Liquefied Petroleum Gas
VCM = Vinyl Chloride Monomer
G.F.= Glass Fiber

[2] Also carried in 111A tank cars.

BILLING CODE 4910-60-C

2. How should the existing level of head and thermal protection be determined for the various sub-groups of 105 tank cars? For example, should a point value be given for each type and thickness of material?

3. What process should be employed to identify and mark each car in the fleet according to its level of head and thermal protection?

4. Is a different level of head and thermal protection needed for hazardous commodities other than those carried in 112 and 114 tank cars? If so, what level and why for the particular commodity? How should these selected cars be identified and marked?

5. Please comment on the degree to which the table is an accurate summary of the existing DOT 105 fleet in terms of the characteristics selected for grouping the cars, the number of cars in the sub-groups, and the protection level indicated.

6. Please provide a breakdown of 105 cars owned by you according to appropriate sub-groupings and characteristics as in the table. Please provide similar information for 105 cars used but not owned by you. Please identify the cars by reporting mark and car number.

Based on surveys and subsequent assessments, the Bureau and FRA believe that at least 8000 existing 105 tank cars that carry the same hazardous commodities as the 112 and 114 tank cars would have to be retrofitted to bring them up to level of protection reasonably equivalent to that prescribed in HM-144.

7. How many 105 tank cars owned by you would be (a) retired (b) displaced to other service or (c) retrofitted if HM-144 performance levels for head and thermal protection were mandated?

8. What would be the reasons and economic consequences or retirement of certain cars in lieu of retrofitting? What consequences from changing the usage rather than retrofitting? Please provide specific information on the age and size of the cars which would be strong candidates for retirement or a change in usage.

9. What effect would your decisions to retire or change the usage of certain 105 tank cars have on new car procurements?

10. What is your assessment of the technical feasibility or retrofitting the various sub-groups of 105 cars and other DOT Specification cars that carry the same commodities as the 105 cars?

11. What is your estimate of the cost of retrofitting a given 105 car? Please specify the sub-group and relevant car characteristics (e.g., capacity) that you base your overall estimate upon and identify the specific cost elements. Also, identify the type of protection system employed for purposes of the estimate, e.g., spray on insulation or jacketed insulation. Finally, included a cost estimate for the out of service time and other cost factors not included above.

12. What should be the retrofit priorities and what time frames would be reasonable? Please specify the basis for your priorities and time periods.

13. Which of the current relief valves are adequate? To what degree can relief valves or discs be modified?

14. Are there any peculiar problems or impacts unique to your situation or due to the fact that you may be a small business?

Finally, there are several issues of more general applicability for which the Bureau and FRA are soliciting information.

15. What methods or processes should be utilized to determine that a given tank head or thermal protection system meets or exceeds a specific performance level?

16. What requirements, procedures, and methods should be utilized for car stencilling?

17. What should be the reporting requirements for monitoring the progress of any mandated retrofit program?

18. What operational changes might be considered in lieu or retrofitting (humping restrictions, train make-up requirements, dedicated train service, special routing, special inspection procedures, on-board detection systems, speed restrictions)?

(49 U.S.C. 1803, 1804; 49 CFR 1.53, App. A to Part I, and paragraph (a)(4) of App. A, Part 106)

Note.—The Materials Transportation Bureau has determined that this ANPRM will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor an environmental impact which would require the preparation of an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.)* A regulatory evaluation and an environmental assessment have been placed in the docket and are available for review. A copy of the regulatory evaluation may be obtained from the person listed as the contract person for further information.

Issued in Washington, D.C. on July 17, 1980.

Alan I. Roberts,

Associate Director for Hazardous, Materials Regulation, Materials Transporation Bureau.

[FR Doc. 80-21931 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-60-M

49 CFR Parts 173 and 179

[Docket No. HM-174; Notice No. 80-6]

Shippers: Specifications for Tank Cars

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration (the Bureau), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes changes in the construction and maintenance standards for railroad tank cars used to transport hazardous materials so as to improve safety. The proposed changes are as follows:

(1) After December 31, 1980, newly built specification 105, 112 and 114 tank cars would have to be equipped with tank head protection (such as a head shield) that protects the entire surface of each tank head;

(2) After December 31, 1980, newly built specification 105 tank cars would have to be equipped with the same shelf couplers, thermal protection and safety valves that are now required for specification 112 and 114 tank cars;

(3) Existing specification 105 tank cars (those built before January 1, 1981) would have to be retrofitted with these shelf couplers over a one-year period ending on December 31, 1981; and

(4) All other DOT Specification tank cars would have to be equipped with the shelf couplers over a four-year period ending on December 31, 1984.

DATE: Comments must be received on or before September 18, 1980.

ADDRESS: Comments should be addressed to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket number and notice number and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Leavitt A. Peterson, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, (202) 426-0897.

SUPPLEMENTARY INFORMATION:

Accidents Experience

At the time the Department of Transportation commenced its review of specifications for pressure tank cars, there had been a series of disastrous railroad accidents involving rail transportation of flammable compressed gases, toxic compressed gases and other

hazardous materials. Most of these accidents involved uninsulated pressure tank cars built to the DOT Specifications 112 and 114.

The Federal Railroad Administration (FRA) accident data accumulated during the period of January 1, 1969, through December 31, 1974, had indicated:

	DOT specification	
	112/114	105
Number of accidents reported to FRA	193	101
Number of cars derailed and/or damaged	434	213
Number of cars sustaining a head puncture	68	13
Number of cars sustaining a shell puncture without a head puncture	13	5
Number of cars ruptured without puncture	59	8
Number of tanks sustaining partial or total loss of hazardous lading	156	39
Number of persons killed as a result of tanks being punctured or rupturing	23	0
Number of persons injured as a result of tanks being punctured or rupturing	936	151

On the basis of this accident data, the Department determined that non-retrofitted 112/114 tank cars presented a greater threat to the public safety than the 105 tank cars. However, 105 tank cars have been involved in a number of train accidents over the past 25 years which dramatize the importance of assuring that these tank cars are also equipped with the best safety protection that is feasible. For accidents prior to 1972, a comprehensive analysis was made by the Railway Progress Institute and the Association of American Railroads (AAR) as part of the Railroad Tank Car Safety Research and Test Project (RA-01-2-7), Phase 01, Report on Summary of Ruptured Tank Cars Involved in Past Accidents, a copy of which has been placed in the docket. The report identified a significant number of accidents in which 105 tank cars were puntured or ruptured due to thermal input. Among the accidents described were the following:

On April 23, 1963, at Bradtsville, Pennsylvania, a derailment resulted in the overturning of a 105A300 car carrying LPG causing an LPG leak and fire. This fire caused the violent rupture of an overturned 112A400W car also carrying LPG. Ten minutes later, the 105 car also violently ruptured, hurling sixty percent of the tank 900 feet.

On December 13, 1964, at West Columbus, Ohio, a 105A100W car carrying ethylene oxide punctured and a fire ensued. Another 105A100W car carrying ethylene oxide subsequently ruptured.

On August 22, 1967, at Texarkana, Texas, a 105A300W tank car carrying butadiene was engulfed in a fire and subsequently ruptured.

On May 27, 1968, at Cotulla, Texas, an intense fire resulted from the puncture of two 105A300W cars carrying vinyl chloride. Two 105A100W tank cars carrying ethylene oxide ruptured after about one hour's exposure to this fire. An end of one of the cars was hurled 300 feet.

On September 11, 1969, a derailment at Glendora, Mississippi, resulted in the head puncture of a 105A200W car carrying vinyl chloride and the shell puncture of a 105A200W car also carrying vinyl chloride. The car with the head puncture "torched" a 105A300W car carrying vinly chloride. This latter car subsequently ruptured, hurling one half of the tank 600 feet and the other half 200 feet.

Two recent accidents demonstrate the potential consequences of release of product from these cars. On February 26, 1978, near Youngstown, Florida, an Atlanta and Saint Andrews Bay train derailed when joint bars were intentionally removed from the rail. During the derailment, a 105 tank car containing chlorine was punctured in the bottom of the tank shell. Eight persons died and 138 were injured as a result of contact with chlorine gas that settled in the area near the derailment.

On April 8, 1979, near Crestview, Florida, a Louisville and Nashville train derailed 25 cars containing hazardous materials. At least five 105 tank cars released some product during that derailment, including a 105A500W tank car that released chlorine from a puncture in the tank shell and a 105A300W tank car containing anhydrous ammonia that split into several pieces and rocketed. Due to the release of several types of hazardous materials, over 4,000 people were evactuated from the surrounding area.

For the reasons discussed in the section by section analysis of sections 179.100-23 and 179.106-5, the systems proposed in this proceeding are not directed at the prevention of damage to tank shells (as distinguished from tank heads) such as occurred at Youngstown and Crestview. However, these accidents illustrate that 105 tank cars are vulnerable to loss of lading through mechanical damage. The human and economic consequences that result from such instances may be substantial.

Other recent accidents further illustrate that the safety systems mandated for 112/114 tank cars are also relevant to the design of 105 tank cars. On June 16, 1977, two Missouri Pacific trains collided at Neelyville, Missouri, causing the lower tank head of a 105A300W tank car containing vinyl chloride to be punctured by the coupler of the adjoining car. On March 16, 1977, a 105A300W tank car transporting butane was punctured in the tank head by a freight car wheel when in Atchinson, Topeka & Santa Fe train derailed at Love, Arizona. In neither of the foregoing accidents was the damaged car equipped with shelf couplers or HM-144 head protection.

On September 8, 1979, a Southern Pacific train derailed near Paxton, Texas. Two 105A300W cars lost their lading in that accident. One of those cars contained isobutylene and was apparently breeched by fire, althought it may have sustained damage to a tank head during the derailment. The other car, containing ethylene oxide, ruptured violently as a result of exposure to a "pool fire" fueled by flammable liquids also released during the accident. Neither 105 car was equipped with shelf couplers, HM-144 head protection, or HM-144 thermal protection

Priority Action for 112 and 114 Tank Cars

Since the Specification 112 and 114 tank cars were determined to present a more serious threat to public safety, the Bureau and the FRA decided to assign first priority to improving the construction and maintenance standards applicable to those cars. It was further decided that after these 112 and 114 cars had been structually upgraded, the Bureau and FRA would then consider a revision of the standards applicable to the 105 tank car to provide a level of safety comparable to that of the improved 112/114 tank cars.

Accordingly, on September 15, 1977, the Bureau issued amendments Nos. 173-108 and 179-19 (42 FR 46306). In summary, these amendments required:

1. Existing and newly built specification 112 and 114 tank cars used to transport flammable gases such as propane, vinly chloride and butane to have both thermal and tank head protection.

2. Existing and newly built specification 112 and 114 tank cars used to transport anhydrous ammonia to have tank head protection (such as a head shield).

3. All specification 112 and 114 tank cars to be equipped with special couplers designed to resist coupler vertical disengagements (shelf couplers).

The retrofitting of couplers and of head shields on tank cars that transport anhydrous ammonia has been completed. Approximately ninety percent of the 112 and 114 tank cars used to transport propane and other liquefied flammable gases have been retrofitted with tank head puncture and thermal protection. The remaining ten percent (approximately 1,700) of these

tank cars will have their retrofit completed by the end of this year.

Now that the 112 and 114 tank car retrofit program is in its final stage, the Bureau and FRA believe that the 105 tank car should now be addressed. This Notice of Proposed Rulemaking proposes to do so in a manner consistent with amendment Nos. 173–108 and 179–19.

Additionally, in developing this Notice, the Bureau and the FRA have determined that two related safety items should be addressed:

1. The need for full tank head puncture resistance; and
2. Application of shelf couplers to all existing and newly built DOT specification tank cars.

National Transportation Safety Board Recommendations

On November 22, 1978, the National Transportation Safety Board (NTSB) issued "Recommendation R–78–58." It stated: "Require that top and bottom shelf couplers be installed on all DOT 105 tank cars as soon as possible (Class I, Urgent Action)." On March 12, 1980, the NTSB expanded this "recommendation" to suggest that the DOT extend Federal requirements for top and bottom shelf couplers to all tank cars which carry hazardous materials and extend requirements for shelf couplers, head shields and thermal protection to type 105 cars when they are newly manufactured or rebuilt.

FRA Safety Inquiry

On April 13, 1978, the Federal Railroad Administration conducted a Special Safety Inquiry into Improved Safety Standards for Insulated Pressure Tank Cars. Testimony was heard from representatives of the NTSB, the AAR, shipping industries, tank car builders and leasing companies, and railroad operating unions. There was general agreement on the concept of completing the retrofit of the 112 and 114 tank cars before beginning any retrofit of 105 tank cars. Also, there was general agreement that shelf couplers should be retrofitted on 105 tank cars after the coupler retrofit on 112 and 114 tank cars was completed. Differing opinions were expressed as to the need for the further retrofitting of 105 tank cars.

Subsequent to that hearing, the Bureau and FRA determined that all new tank cars are being equipped with shelf couplers and that most existing 105 tank cars are also being so equipped when coupler repairs or replacements become necessary. Also, as a result of that hearing and information received subsequently from car builders, FRA believes that most of the 6,000 newly built 105 tank cars that are utilized in flammable gas service have been equipped with ½-inch jacket heads and high temperature insulation

Characteristics and Use of 105 Tank Cars

There are approximately 27,000 U.S. and Canadian owned Specification 105 tank cars, of which approximately 24,000 are built to DOT specifications and 3,000 are built to Canadian Transport Commission (CTC) specifications. The U.S. fleet consists of approximately 1,400 aluminum 105 tank cars and 22,600 steel tank cars. Until 1973, most 105 tank car tanks had capacities ranging from 10,000 gallons to 20,000 gallons. Since 1973, FRA estimates that more than 6,000 DOT specification 105 tank cars have been manufactured that have capacities ranging from 25,000 to 34,000 gallons.

Report FRA/ORD–80/60, entitled "105A Tank Car Fleet Characterization Study," is included in the docket and contains additional information on the variations in age, structural designs, capacities, thermal insulations, and other characteristics of 105 tank cars.

Many DOT Specification 105 tank cars are used to transport the same hazardous commodities as are transported in the 112 and 114 specification tank cars. In addition, the 105's are used to carry other hazardous materials such as chlorine, ethylene oxide, butadiene, hydrocyanic acid, motor fuel anti-knock compounds, poisons and combustible/flammable liquids and solids.

All 105 specification tank cars have some amount of thermal insulation and all have steel jacket coverings of varying thicknesses. Most tank heads and shell thicknesses on the 105 cars are greater than those on the 112 cars. However, it is estimated that at least 8,000 of the existing 105 cars that carry the same commodities as 112 and 114 tank cars do not have the equivalent level of puncture and thermal protection mandated for the 112 and 114 tank cars.

Retrofit of Tank Head and Thermal Protection

Elsewhere in this issue of the **Federal Register**, the Bureau and the FRA are issuing an Advance Notice of Proposed Rulemaking soliciting comments concerning the retrofit application of tank head and thermal protection systems to existing 105 tank cars and other DOT Specification tank cars that are used to transport the same hazardous materials as 105 cars.

Section-by-Section Analysis

§ 179.31 Qualification, maintenance, and use of tank cars

The proposed amendment of paragraph (a)(3) of Section 173.31 would authorize the use of class DOT–105J cars that have equal or higher marked test pressure than the test pressure for the prescribed 105A tank car. This is proposed in order to provide authorization to use the 105J tank car under current provisions of Part 173.

Paragraph (a)(6) would require shelf couplers to be installed on all 105 tank cars by December 31, 1981. Since there are approximately 24,000 specification tank cars in the United States fleet, the total number of shelf couplers required to be installed would be approximately 48,000 (two per tank car). However, the Bureau and the FRA believe that approximately 6,000 of these cars already are equipped with shelf couplers and that shelf couplers can be applied on the remaining 18,000 tank cars within the proposed time period without disrupting the flow of vital commodities transported by these 105 tank cars. Shelf couplers are easily installed. Moreover, the Bureau and the FRA believe that the retrofit installation of shelf couplers on the 105 tank cars can quickly improve the safety performance of these cars at minimal cost. At the FRA Special Safety Inquiry, industry representatives agreed that these special couplers assist in keeping cars in line and preventing tank punctures.

Paragraph (a)(7) would require shelf couplers to be retrofit installed on all other DOT specification tank cars by not later than December 31, 1984. The Bureau and FRA estimate that there are approximately 135,000 DOT Specification tank cars. Of this number, approximately 24,000 have been built to specification 105 and approximately 18,000 to specifications 112 and 114. These tank cars are covered by proposed paragraph (a)(6) and existing paragraph (a)(5). Thus, paragraph (a)(7) would apply to approximately 93,000 cars. However, the Bureau and FRA estimate that approximately 20,000 of these tank cars are already equipped with shelf couplers retrofit installed within four years based upon industry's experience with the HM–144 shelf coupler retrofit programs.

§ 179.14 Tank car couplers

The proposed deletion of existing paragraphs (a)(1)(2) and (4) would remove the authority to apply non-shelf F-Style couplers to new tank cars. The remaining couplers specified in paragraphs (3) and (5) are top and bottom shelf E-style and top shelf F-

style couplers. Thus, the effect of this proposed change would be to require shelf couplers on all 105 tank cars built after December 31, 1980. The Bureau and the FRA understand that current practice is to install shelf couplers on all new tank cars.

§§ 179.100–23 and 179.106–5 Head shields

The proposed change in Section 179.100–23 would require that all new DOT Specification 105, 112 and 114 tank cars built after December 31, 1980, be equipped with a tank head puncture resistance system providing protection for the entire tank head, rather than only the lower half of the tank head. The purpose of this requirement is to assure that new tank cars will be designed to provide the maximum feasible protection against tank head mechanical damage in a derailment environment. The proposed addition of paragraph (c) in Section 179.100–23 would authorize continued use of 112 and 114 tank cars equipped to present HM–144 requirements.

The rule issued in Docket No. HM–144 governing the application of safety systems to DOT Specification 112/114 uninsulated pressure tank cars (Section 179.105–5) required only the lower half of the tank head to receive protection. This requirement was based on analysis, research and testing conducted in the early 1970's, and represented the best judgment of what was prudent and feasible at the time the requirements of Docket No. HM–109, the predecessor to Docket No. HM–144, were promulgated (39 FR 27572; July 30, 1974). Docket No. HM–144 added coupler restraint systems and thermal protection to the requirements for retrofit of 112/114 tank cars, producing an overall system of safety protection that renders these tank cars highly resistant to product loss in a derailment environment.

The HM–144 requirements, then, represented a very satisfactory approach to the protection of pressure tank cars. Nevertheless, recent accidents have illustrated that human and economic losses resulting from individual accidents may dramatically exceed the levels previously anticipated. In addition, at least three tank car companies have incorporated full tank head protection into their designs for the retrofit of 112/114 tank cars and the construction of some 105, 112 and 114 tank cars. This voluntary initiative by private industry has demonstrated both the economic and technical feasibility of providing full tank head protection.

These developments have caused the Bureau and the FRA to reconsider the issue of new pressure tank car construction with respect to protection against mechanically-caused failure of the pressure tank. Puncture, tearing, or critical scoring of a pressure tank equipped to HM–144 specifications can occur in at least three modes;

First, the tank shell may be damaged in a derailment involving significant forces. Roughly one out of ten instances of major product loss involves shell penetration. The application of material (such as insulation or jacketing) on the exterior of the shell may provide limited protection. However, it appears not to be currently feasible to provide impact resistance on the tank shell comparable to that required for tank heads. The additional weight associated with shell shielding materials and support structure, coupled with the gross weight on rail limits, would reduce the product-carrying capacity of these cars. The reduction in capacity, in turn, would increase the cost of transporting these products by rail.

The second tank failure mode is penetration of the required head protection. An extreme derailment or a high force impact between groups of cars could result in failure of the tank head protection system. However, extensive testing and recent rail accident experience have demonstrated that the likelihood of such failure is very small; and any further effort to strengthen the system would face the same limits of practicability discussed above.

The third failure mode is penetration of the tank above the level protected by the required head shield. Prior to application of shelf couplers on 112/114 cars, roughly one out of ten mechanically-caused failures of those cars occurred in that manner. The derailment at Pensacola, Florida, November 9, 1977, for instance, involved a puncture just above the area that would likely have been protected by a shield covering the lower half of the tank head. Failures of 105 cars, while less frequent, have followed the same basic pattern as 112/114 cars with respect to mechanical damage resulting in product loss.

While application of shelf couplers will tend to reduce the likelihood that objects will strike the top half of pressure tank car heads, it is certain that some such instances will occur. Indeed, a retrofitted 112 tank car was punctured in the top portion of the tank head when on January 14, 1980, at Ridgefield, Washington, a Burlington Northern train derailed. The release of anhydrous ammonia through the puncture resulted in two deaths. While derailment forces in that accident may have been sufficient to overcome the protection that would have been provided by a full head shield, the accident illustrates that the top portion of the tank head is also a target for couplers, wheels, and other potential puncture causing components that may strike pressure tank cars during derailments.

As noted above, the tank car industry has already demonstrated the feasibility of full tank head protection for new car construction. The additional cost of the further protection is not significant in relation to the overall cost of the car. By contrast, a single accident producing loss of product through the upper tank head could result in loss of life and tens of millions of dollars in property damage. Therefore, the Bureau and the FRA proposed to take this additional step forward in mandating safety improvements for all new pressure tank cars built after then end of this year.

§ 179.105 Special requirements for specifications 112 and 114 tank cars

In Section 179.105–4, an editorial change is proposed in paragraph (c) to show the new name and address of the Bureau's Dockets Branch.

In Section 179.105–5, it is proposed in paragraph (b) to delete wording referring to "* * * full tank head jackets that are at least ½ inch-thick." With the tank head puncture resistance system requirements specified in Section 179.100–23 proposed to be changed so as to require the entire tank head to be protected, reference to full tank head jackets would become superfluous.

§ 179.106 Special requirements for specification 105 tank cars

A new Section 179.106 entitled, "Special Requirements for Specification 105 Tank Cars" is proposed to be added in Part 179 of the regulations. This section would provide new specifications for improving the safety of these tank cars. As of January 1, 1981, all new specification 105 tank cars would be required to be built equipped with "shelf couplers," tank head puncture resistance systems, thermal protection systems and safety relief valves that have an adequate capacity to protect the tank.

Tank Car Approval

The changes in the specification of 105 tank cars proposed in this notice would not have to be approved by the AAR Committee on Tank Cars. The Bureau believes the addition of thermal protection and tank head puncture protection can be properly achieved by compliance with the proposed standards without the imposition of "AAR approval" requirements. This action is

in accord with that taken under the 112 and 114 tank car safety program.

Canadian Tank Cars

In proposed Section 179.106–1, paragraph (c) would require that 105 tank cars built to specifications promulgated by the CTC transporting hazardous materials in the United States must also be equipped in accordance with the same special requirements and time constraints as United States built and owned specification 105 cars. Because of the potential catastrophic consequences of accidents involving 105 tank cars, the Bureau and FRA believe that all such cars used to transport hazardous materials in the United States must be so equipped.

Specifically, existing CTC specification 105 tank cars would be required to be equipped with shelf couplers by not later than December 31, 1981, if used to transport hazardous materials in the United States. Likewise, each new CTC specification tank car built after December 31, 1980, would be required to be equipped with shelf couplers, a tank head puncture resistance system, a thermal protection system, and a large capacity safety relief valve in the same manner as new DOT specification 105 tank cars if it is used to transport hazardous materials in the United States.

New Tank Car Requirements

Proposed Section 179.106–2 contains four new safety requirements applicable to new 105 tank cars constructed after December 31, 1980. These four safety features are identical to those now required on newly constructed 112 and 114 tank cars.

Coupler Vertical Restraint System

Each new 105 tank car would be required to be equipped with a coupler vertical restraint system (shelf couplers). These couplers have demonstrated an ability to reduce tank and running gear damage under certain rail accident conditions. Further, AAR Interchange Rules have required such couplers on all new tank cars since January 1, 1978.

Tank Head Puncture Resistance System

Each new 105 tank car would be required to have a tank head puncture resistance system (head shields) similar to that proposed for new 112 and 114 tank cars. A review of recent accidents involving 112 and 114 tank cars equipped with tank head protection confirms that this protection is effective in preventing tank head punctures. According to FRA accident records, no 112 nor 114 tank car has sustained a tank head puncture in the area protected by the head shield. There have been three reported tank head punctures in areas not protected by the head shield. The Bureau and FRA believe that applying full tank head protection to 105 pressure tank cars will materially improve the rail transportation safety of liquefied compressed gases and other highly hazardous liquids being carried in these cars.

Thermal Protection

Although 105 tank cars are required to be insulated with a material capable of controlling product temperature in the transportation environment, there is no current requirement that this insulation protect the tank from overheating in a fire environment. All specification 112 and 114 tank cars transporting flammable liquefied compressed gases are now required to have high temperature thermal protection to protect tank in a fire environment. The Bureau and the FRA believe that addition of a high temperature thermal requirement to the current insulation requirement on 105 tank cars is necessary to assure the use of the best available materials for new construction. The Bureau and FRA are aware that such insulating materials have been installing on many 105 tank cars.

Safety Relief Valves

Tests conducted by the FRA in conjunction with the rulemaking contained in MTB Docket HM–144 indicate that the safety relief valves installed on uninsulated 112 and 114 tank cars might not provide sufficient relief capacity under extreme fire accident conditions. However, these tests also domonstrated that if thermal protection were added to tanks, the capacity demands on these valves would be reduced. Accordingly, Section 179.105–7 was issued to require that newly built and retrofitted 112 to 114 cars that have thermal protection be equipped with the same capacity safety relief valves that were required on non-insulated 112 and 114 tank cars.

For these reasons, it is being proposed that newly built 105 tank cars that have thermal protection also be equipped with the larger capacity safety relief valve which was initially developed for uninsulated pressure tank cars.

Previously Built Cars

Proposed Section 179.106–3 would rquire the retrofitting of shelf couplers on all existing 105 tank cars. As has been stated previously under the discussion of Section 179.31, the Bureau and FRA believe that rapid retrofit installation of shelf couplers on all 105 tank cars not already so equipped is essential from the standpoint of safety. The supply of shelf couplers is sufficient to permit the retrofitting of the approximately 18,000 DOT 105 tank cars no so equipped within twelve months.

Stencilling

In order that shippers, carriers and others may easily identify tank cars having the various described safety features, proposed Section 179.106–4 would require 105 tank cars newly built in accordance with Section 179.106 to be stencilled 105J. This stencilling will provide for easy identification of the tank car's safety features and facilitate compliance with the loading and handling regulations.

In consideration of the foregoing, Parts 173 and 179 of Title 49 Code of Federal Regulations are proposed to be amended as follows:

1. In Section 173.31 paragraph (a)(3) would be amended by adding a new subparagraph (vii) and new paragraphs (a)(6) and (7) would be added to read as follows:

§ 173.31 Qualification, maintenance and use of tank cars.

(a) * * *

(3) * * *

(vii) When class DOT–105A tank car tanks are prescribed, class DOT–105J tank cars having equal or higher marked test pressures than those prescribed may also be used.

* * * * *

(6) After December 31, 1981, each specification 105 tank car shall be equipped with shelf couplers in accordance with Section 179.105–6 of this subchapter.

(7) After December 31, 1984, each DOT specification tank car shall be equipped with shelf couplers in accordance with Section 179.105–6 of this subchapter.

2. In Section 179.14(a) paragraphs (1), (2) and (4) would be canceled; current paragraph (3) would be renumbered (1) and current paragraph (5) would be renumbered (2).

3. Section 179.100–23 would be revised to read as follows:

§ 179.100–23 Head shields.

(a) Each end of a DOT specification 105, 112 and 114 tank car built after December 31, 1980, must be equipped with a protective head shield. The shield must:

(1) be at least ½-inch thick, and made from steel produced in accordance with specifications ATSM A242, A572–GR50, A515–70, A516–GR70, or AAR TC–128B;

(2) be at least the size of the entire tank head of the tank car;

(3) be shaped to the general contour of the tank head; and

(4) meet the impact test requirements of paragraph AAR 24–5 in the "Specifications for Tank Cars" Standard, effective October 1, 1972. The impact test acceptance criterion is that the device and its supporting structure does not sustain visible permanent damage or deformation such as fractures, cracks, bends and dents. The object of this requirement is to assure that the head shield has adequate strength to remain attached and functionally unimpaired during normal operations.

(b) The head protection device must meet all of the workmanship requirements of the "AAR Specification for Design, Fabrication and Construction of Freight Cars," dated September 1, 1964.

(c) Any tank head puncture protection system that meets the puncture resistance performance requirements of 179.105–5 over the full area of the tank head is deemed to meet the requirements of this section.

(d) DOT specification 112 and 114 tank cars built before January 1, 1981, must be equipped with tank head protection as required by §§ 179.105–5 and 179.100–23 in effect on October 1, 1979.

4. In Section 179.105–4, the last sentence of paragraph (c) would be amended to show the new name and address of the Dockets Branch as follows:

§ 179.105–4 Thermal protection.

* * * * *

(c) * * *

Information necessary to equip tank cars with one of these systems is available in the Dockets Branch, Room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

* * * * *

5. In Section 179.105–5 paragraph (b) would be revised to read as follows:

§ 179.105–5 Tank head puncture resistance.

* * * * *

(b) *Test verification.* Compliance with the requirements of paragraph (a) of this section shall be verified by full scale testing or by the alternate test procedures prescribed in paragraph (c) of this section. However, protective head shields that meet the requirements of 179.100–23 and that are made from steels specified in 179.100–23(a)(1) need not be verified by testing.

* * * * *

6. A new Section 179.106 would be added to read as follows:

§ 179.106 Special requirements for specification 105 tank cars.

§ 179.106–1 General.

(a) In addition to the requirements of this section, each tank car built under specification 105 shall meet the applicable requirements of Sections 179.100, 179.101, 179.102 and 179.104.

(b) Notwithstanding the provisions of Sections 179.3, 179.4, and 179.6, AAR approval is not required for changes in or additions to specification 105 tank cars necessary to comply with this section.

(c) Notwithstanding the provisions of Section 173.8 of this subchapter, no 105 tank car manufactured to specifications promulgated by the Canadian Transport Commission may be used after December 31, 1981, to transport hazardous materials in the United States unless it is equipped with a coupler vertical restraint system that meets the requirements of Section 179.105–6.

(d) Notwithstanding the provisions of Section 173.8 of this subchapter, no 105 tank car manufactured after December 31, 1980, to specifications promulgated by the Canadian Transport Commission, may be used to transport hazardous materials in the United States unless it is equipped in accordance with Section 179.106–2.

§ 179.106–2 New Cars.

(a) Each specification 105 tank car built after December 31, 1980, shall be equipped with:

(1) A coupler restraint system that meets the requirements of Section 179.105–6;

(2) A tank head puncture resistance system that meets the requirements of Section 179.105–5;

(3) A thermal protection system that meets the requirements of Section 179.105–4; and

(4) A safety relief valve that meets the requirements of Section 179.105–7.

§ 179.106–3 Previously built cars.

After December 31, 1981, each specification 105 tank car built before January 1, 1981, shall be equipped with a coupler restraint system that meets the requirements of Section 179.105–6.

§ 179.106–4 Stenciling.

Each 105 tank car that is equipped with a coupler restraint system that meets the requirements of Section 179.105–6, a tank head puncture resistance system that meets the rquirements of 105–5, a thermal protection system that meets the requirements of Section 179.105–4, and a safety relief valve that meets the requirements of Section 179.105–7, shall be stenciled by having the letter "J" substituted for the letter "A" in the specification marking.

(49 U.S.C. 1803, 1804; 49 CFR 1.53, App. A to Part I, and paragraph (a)(4) of App. A, Part 106)

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor an environmental impact which would require the preparation of an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation analyzing the costs and benefits of this proposal is available for review in the Docket. A copy may be obtained from the person listed as the contact person for further information. An environmental assessment is also available for review in the Docket. The Materials Transportation Bureau also has determined that this proposed regulation does not have any significant or special impact on small business.

Issued in Washington, D.C. on July 17, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80–21932 Filed 7–18–80; 8:45 am]

BILLING CODE 4910–60–M

INTERSTATE COMMERCE COMMISSION

49 CFR Chapter X

[Ex Parte No. 355]

Cost Standards for Railroad Rates; Republication

AGENCY: Interstate Commerce Commission.

ACTION: Revised notice of proposed interpretation of statutory provisions.

SUMMARY: This is a republication, with corrected dates, of a notice that appeared July 1, 1980 (45 CFR 44351). A revised interpretation of statutory minimum rate provisions is proposed for public comment. Interpretation of statutory rate increase provisions is deferred. The Commission has concluded that a new proposed interpretation of the pertinent statutory minimum rate provisions should be published for comment, and that the scope of the proceeding should be revised accordingly. The focus of the

proceeding is now on the interpretation of the minimum rate provisions of Section 202(b) of the Railroad Revitalization Act of 1976.

DATES: Comments are due August 20, 1980.

ADDRESS: An original and 15 copies (if possible) of comments should be sent to: Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder or Jane Mackall, (202) 275–7693.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the **Federal Register** October 11, 1978 (43 FR 46877), the Commission stated that it was instituting a proceeding "to adopt formulas for determining the variable costs and the incremental costs of providing rail service." The notice requested public comment on working definitions of a number of terms, which it said would be used in the formulas.

Comments in response to this notice have been received and analyzed. The Commission has concluded that a new proposed interpretation of the pertinent statutory provisions should be published for comment, and that the scope of the proceeding should be revised accordingly.

The proposed interpretation is set forth in a decision by the Commission issued, July 9, 1980. Briefly, the focus of the proceeding is now on the interpretation of the minimum rate provisions of Section 202(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (codified at 49 U.S.C. § 10701). The proposed interpretation includes the following points:

1. The objective of the proposed interpretation is to provide maximum flexibility for rate reductions, in accordance with the purposes of the 4R Act;

2. A rate which covers "directly variable cost" as shown by Commission formula is presumed not to be unreasonably low;

3. "Directly variable cost," for the purpose of Section 202, consits only of direct operating expenses, and in this category, the Commission proposed to include as its formula only the line-haul cost of the lading, applicable switching costs, and station clerical cost;

4. The presumption based on directly variable cost may be rebutted by a showing that the rate fails to contribute to the carrier's going concern value;

5. A rate contributes to a carrier's going concern value where it maintains or increases the carrier's net cash flow;

6. The net cash flow from a service is the difference between the revenues received and the cash outlays made, both properly discounted;

7. The discount rate for cash flow purposes is the after-tax cost of capital rate;

8. The income tax rate for cash flow purposes is the marginal statutory tax rate;

9. As an adjunct of the proposed standards, carriers must comply with reasonable data requests from complainants;

10. Minimum rate proceedings involved intermodal competition will be governed by the same contribution-to-going-concern-value standard as other minimum rate proceedings;

11. Carriers will be free to raise reduced rates except in certain special circumstances;

12. The general meaning of variable cost, as it may be used for purposes other than minimum rate proceedings, is no longer at issue in this proceeding.

Other provisions of Section 202(b), relating to rate increases, may be affected by pending railroad legislation. Accordingly, interpretation of these provisions is deffered for the present.

Full details of the proposed interpretation of the minimum rate provisions and the supporting discussion are set forth in the Commission's decision, issued July 9, 1980 in Ex Parte No. 355, *Cost Standards for Railroad Rates.* Copies of the decision are available from the Office of the Secretary of the Commission.

All interested persons, including those who have not previously participated in this proceeding, are invited to submit comments on the proposed interpretations.

This proposal will not significantly affect either the quality of the human environment or conservation of energy resources.

Dated: June 9, 1980.

(49 U.S.C. 10701)

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Stafford dissenting with a separate expression.

Commissioner Stafford dissenting. My objections to the proposal are stated in the decision in Ex Parte No. 355, served July 9, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21765 Filed 7-18-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Proposals by Australia and South Africa To Amend Appendices to the Convention on International Trade in Endangered Species in Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for information.

SUMMARY: The Convention is a 59-nation agreement to prevent the over-exploitation of certain species of wild plants and animals through international trade. The species for which trade is controlled are listed in appendices to the Convention. Changes in the list of species included in Appendices I and II may only be proposed by Party nations, and they require approval by a two-thirds majority of Parties if a vote is required.

This notice announces the Service's intention to support a proposal by Australia to list the parson finch (*Poephila cincta cincta*) in Appendix II. It also requests information on various species or subspecies addressed in proposals from South Africa for consideration by the postal procedure under Article XV of the Convention. Such information will be used in preparing comments by the United States on those proposals.

DATE: The Secretariat for the Convention must receive comments and other information from the Parties on the South African proposals by August 17, 1980. In order to develop at timely response, the Service will consider all information and comments received by August 20, 1980.

ADDRESS: Please address correspondence to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240. Materials received may be viewed from 7:45 am to 4:15 pm, Monday through Friday, in room 536, 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: Postal procedures for amending the list of wildlife and plant species included in Appendices I and II are provided in Article XV of the Convention (T.I.A.S. 8249). Under this article, any Party may propose an amendment for consideration between meetings of the

Parties. In response, any Party may transmit comments, information and data to the Secretariat of the Convention within 60 days of the date when the Secretariat communicated its recommendations on such a proposal to the Parties. The Secretariat will then communicate the replies received together with its own recommendations to the Parties as soon as possible. If the Secretariat receives no objection within 30 days of communicating the replies and recommendations, the proposal is adopted and enters into effect 90 days later. If any Party objects during the 30-day period, the proposal is put to a vote. The proposal is then adopted if approved by a two-thirds majority of the Parties voting provided that at least one-half of all Parties cast a vote or indicate their abstention.

Australian proposal

The Service published a notice in the **Federal Register** on May 16, 1980 (45 FR 32353) requesting information on the parson or black-throated finch (*Poephila cincta cincta*), which the Commonwealth of Australia had proposed for inclusion in Appendix II. No information was supplied in response to that notice. The Service provided the following comment to the Secretariat for the Convention:

> We support the proposal generally, and might recommend adding the other subspecies, *P.c. atropygialis*, if only for control purposes. We also note that this species is referred to in the trade, at least in the U.S., as the parson finch, and recommend adding that name to the list of common names. It may be of interest that at least one avicultural book (Bates and Busenbark, 1970, Finches and Softbilled Birds, TFH Publications) identifies the subspecies under consideration here as the more common, possibly because it may have entered trade more in the past or may be more widely bred in captivity. Conversely, this book refers to *P.c. atropygialis* as being extremely rare, but further points out that both subspecies are sold readily as parson finches.

A notification from the Secretariat, dated June 19, 1980, cited comments from Togo, Canada, Switzerland, and Lichtenstein, in addition to the United States. None of these nations entered a formal objection to the proposal, but Canada, Switzerland, and Lichtenstein mentioned that the subspecies is practically of no importance in international trade. Switzerland and Lichtenstein further noted that effective control measures are difficult to implement in view of the large size of individual shipments and the practical problems of identifying animals in their shipping containers.

The Secretariat remarked that, taking these comments into account, it recommends approval of the proposal "in so far as the only country of origin of the subspecies in question considers that the protection granted by the Convention is necessary for its survival."

The Service has determined to support the Australian proposal on these grounds. The proposal appears to be consistent with Article II.2.a of the Convention, which provides that Appendix II shall include "all species which although not necessarily now threatened with extinction may become so unless trade in species is subject to strict regulation in order to avoid utilization incompatible with their survival."

South African proposals

A notification from the Secretariat dated June 18, 1980, transmitted proposals from the Republic of South Africa (R.S.A.) concerning eight genera, species or subspecies.

1. *Damaliscus dorcas dorcas* (bontebok)—Transfer from Appendix I to Appendix II. South Africa remarked that the bontebok is numerically relatively strong within its natural distribution range and has been bred in large numbers in aras outside its natural range. At present, plans exist to encourage local interests to establish more nucleus herds within the original distribution range. As a result, trade, under the strict control of the Cape Provincial Department of Nature and Environmental Conservation, could indirectly further the conservation of this subspecies by stimulating farmers in the range to keep them for purposes of commercial gain.

The Secretariat commented in support of this proposal, noting that the subspecies seems to be out of danger and is assured of effective protection in its only country or origin.

2. *Hippotragus equinus* (roan antelope)—Add to Appendix II. South Africa stated that: In the R.S.A. it now only occurs in the Transvaal but was known to have occurred in the Cape well to the north of the Orange River in historic times. Used to be widespread in the savannah north and south of the equator but never common. It is apparently declining in many parts of the range and all 5 presently recognized subspecies are apparently threatened.

Populations in South Africa number approximately 350 individuals in three sites. Small herds also occur in Namibia. South Africa remarked that exploitation of this species could be detrimental to survival of the species, particularly south of the equator, while most present populations occur in areas where they are exposed to a wide variety of disease. The species appears to be more susceptible to disease than most other antelope.

The Secretariat recommended postponing consideration of this proposal until the third meeting of the Parties (February 1981) because the information is fragmentary and is virtually limited to one Party, although this species has a much larger range. Comments from other countries of origin are necessary.

3. *Poicephalus rueppelli* (Ruppell's parrot)—Add to Appendix II. South Africa reported that the species occurs in central Namibia northwards to southern Angola. Its population status is unknown, but it appears to require taller trees and is restricted through its range to better-developed woodland in valleys. The species enjoys protected game status in Namibia, under which private individuals may hold up to five pairs in captivity with an appropriate permit, and licensed game dealers may capture the species for export. The volume of that trade is unknown. Envisaged legislation in Namibia will provide specially protected status to prohibit these forms of exploitation. South Africa remarked that "Exploitation could be detrimental to the species in view of its restricted range and apparently small total population."

The Secretariat recommended approval of this proposal, noting that "There are indeed valid reasons for the inclusion of this appendix of most of the psittacines, in view of heavy trade."

4. *Psammobates (=Testudo) geometricus* (geometric turtle)—Include this name in Appendix I in lieu of *Psammobates geometrica*. South Africa proposed that the species be referred to as *Psammobates (=Testudo) geometricus* because its scientific name may be expressed either as *Psammobates geometricus* or as *Testudo geometrica*, depending on the taxonomic viewpoint of the individual. The suggested listing would avoid confusion.

The Secretariat recommended adotion of this proposal, considering that a commonly used synonym, even if not corresponding to the most scientifically correct nomenclature, should be mentioned in the appendices in order to facilitate the work of control officers.

5. *Cordylus* spp. and *Pseudocordylus* spp. (girdled lizards and crag lizards)—Add to Apendix II. South Africa supported the inclusion of these genera with the following information.

Found only in southern and eastern Africa. About 35–40 species and subspecies throughout this area, mostly in southern Africa. Many forms are

restricted in range. The majority of species are rock-dwellers, a few only living in holes in the ground or in tree-trunks. In many cases they are restricted by their habitat preferences to discrete local populations, which are subject to exploitation by collectors, as both the lizardds and their retreats are obvious.

Cordylus and *Pseudocordylus* lizards are much sought after by amateur herpetologists and are readily maintained in captivity. The more spectacular forms are mounted as curios because the heavily-armoured skin lends itself to taxidermy, besides being unusual and attractive. These lizards are equally sought after by the pet trade outside Africa. They are easy to feed, relatively long-lived, transport easily, spectacular, tame easily and are diurnal sun-baskers. All these characteristics make them sought after. Numerous permits have been issued for their export from southern Africa in recent years. There is no question that *Cordylus cataphractus* and other Cape endemics have found their way on to the international market illegally. They can be transported in the pockets of travellers. The rarer forms may be misidentified by export and import authorities. The demand for reptiles as pets is growing rather than diminishing. All *Cordylus* and *Pseudocordylus* must be protected because of the danger of confusing common forms with rare forms.

The Secretariat remarked that information supplied by South Africa is not sufficient for an evaluation of the status of the individual species concerned, and that there also might be identification difficulties with species of the genus *Chamaesaura*. Consequently, the Secretariat advised that the proposal should be completed and re-submitted for consideration at the third meeting of the Parties.

6. *Xenopus gilli* (Cape clawed toad, Gill's clawed toad)—Add to Appendix I. South Africa stated the following:

Found only in the S.W. Cape Province of the Republic of South Africa. Known from a handful of localities within 60 km of Cape Town, and perhaps from Citrusdal and Nieuwoudtville (where they have not been found for many years). Population unknown. Perhaps several thousands. This [species] is presently being studied intensively. However, it appears that it requires nutrient-poor acid waters in the form of shallow pans or slow-flowing streams. All these habitats have either been destroyed, or are under threat from drainage or eutrophication. It is regarded as impractical to consider stocking artificial waters with this species. This species is known to be rare and is often collected illegally (if unknowingly) by amateur herpetologists. This could be diastrous to individual populations especially during the summer months when pans often dry up completely.

Legal international trade is presently carried out under control by the Cape Department of Nature and Environmental Conservation. The species is in considerable demand for scientific study overseas, due to the scientific interest in frogs of the genus *Xenopus*. It is known that numbers of *X. gilli* have been accidentally exported in batches of *X. laevis*. Illegal trade certainly occurs, but to what extent is unknown. All rare amphibians are threatened by the expanding trade in unusual reptiles and amphibians. It may be confused with juvenile *X. laevis* and escape detection. Scientific demand is expected to increase.

The Secretariat commented on the problem of distinguishing *X. gilli* from *X. laevis*, and suggested revision of the proposal to list *Xenopus* spp. in Appendix II. This listing would enable South Africa to control exports of *X. gilli* through the grant of Appendix II export permits for that species.

7. *Pachypodium namaquanum* (Elephant's trunk plant)—Transfer from Appendix II to Appendix I. South Africa noted that the species has a restricted distribution in the extreme northwestern Cape Province and southern Namibia. The proposal stated that:

Due to its rarity and striking appearance it is one of the most sought after succulents in the world. Owing to strict laws in the Cape Pronvince, R.S.A., and Namibia, the trade is under reasonable control in these countries. It is not known to be used for any other purpose than as an ornamental and collector's item. Very strict control is exercised over its export from the Cape Province, R.S.A., and Namibia. According to reliable reports, *P. namaquanum* has been offered for sale in overseas countries in large numbers although no permits have been issued for export. It is thought that specimens of *P. namaquanum* leave the country illegally under different names. Increasing interest in succulents in general, and rare and striking species in particular poses a growing threat to this species. Since it is large specimens that are sought after in the trade and the cultivation from seed of specimens of reasonable size is impracticable due to very slow growth, trade will always pose a threat to natural populations.

The Secretariat recommended approval of this proposal.

Request for Information

The Service requests any information that might be useful in developing a response to the Secretariat. Please transmit any such information to the Service on or before the date given above. Future notices in the **Federal Register** will address the Service's response, replies from other Parties, and subsequent actions concerning these proposals.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority.

Dated: July 15, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-21714 Filed 7-17-80; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 45, No. 141
Monday, July 21, 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.

DEPARTMENT OF AGRICULTURE

Forest Service

Shawnee National Forest Land and Resource Management Plan, Illinois; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement on the proposed Land and Resource Management Plan for the Shawnee National Forest in Illinois.

The plan is being prepared in accordance with requirements of the Secretary's regulations developed pursuant to the National Forest Management Act of 1976. It will propose management direction for the natural and human resources within the proclamation boundaries of the Shawnee National Forest.

The planning process will begin with identification of public issues, management concerns, and resource use and development opportunities. Planning criteria will be developed, and data will be collected and analyzed to determine how the identified issues and concerns can be resolved. An assessment of the capability of the land to produce resource outputs, and a determination of the public's future demands for these outputs will be made. Methods for resolving the identified public issues will be developed from this information, and will be used to formulate alternatives.

Alternatives will display a range of resource outputs at several expenditure levels. Each alternative will represent a cost-effective combination of management practices which can best meet the objectives of the alternative. In addition, each identified major public issue will be addressed; each alternative will specify methods to restore renewable resources, and a no-change alternative will be included.

A preferred alternative will be selected by ranking the alternatives according to their physical, biological, social, and economic effects. It will include the best combination of resource uses on the Forest and will also provide for a continuous monitoring and evaluation process.

A draft environmental impact statement will be released around January 1982. The final land and resource management plan and environmental impact statement will be released approximately 8 months later.

Public participation will be an integral part of the planning process. A response form, meeting, and other public involvement tools will be used to identify issues early in the planning process. Each public involvement activity will be announced through the news media and mailings to interested agencies, organizations, and individuals.

Steve Yurich, Regional Forester of the Eastern Region, is responsible for approval of the Forest Plan, and David F. Jolly, Forest Supervisor of the Shawnee National Forest is the responsible official in charge of preparation and implementation of the plan.

Further information about the planning process can be obtained by calling Lowell W. Patterson, Planning Staff Officer of the Shawnee NF at 618–253–7114. Written comments on this Notice of Intent should be directed to: Forest Supervisor, Shawnee National Forest, 317 East Poplar Street, Harrisburg, IL 62946.

James H. Freeman,
Director, Planning, Programming and Budgeting.
July 11, 1980.

[FR Doc. 80–21786 Filed 7–18–80; 8:45 am]
BILLING CODE 3410–11

COMMISSION ON CIVIL RIGHTS

Arizona 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 Arizona Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12 Noon, on August 23, 1980, at the Adams Hotel, 101 Central Avenue, (Hopi A Room), Phoenix, Arizona 85001.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Los Angeles, California 90012.

The purpose of the meeting is to discuss program planning for fiscal year 1981.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 16, 1980.

Thomas L. Neumann,
Advisory Committee Management Officer.

[FR Doc. 80–21781 Filed 7–18–80; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

National Bureau of Standards

Review Schedule for Government, Commercial, or Industrial Activities

Pursuant to OMB Circular No. A–76, the National Bureau of Standards is hereby publishing the review schedule for the Government Commercial or Industrial Activities which are conducted at NBS.

Activity and location	Estimated start date	Estimated completion date
Management of Audio Visual Programs, Gaithersburg, Md. & Boulder, Colo.	9-01-80	2-28-81
Medical Treatment/Health Protection, Gaithersburg, Md.	9-01-80	2-28-81
Audio Visual & Conference Facilities, Gaithersburg, Md.	9-01-80	2-28-81
Visual Arts Services, Gaithersburg, Md.	11-01-80	4-30-81
Employee Development, Gaithersburg, Md.	2-01-81	7-31-81
Mail Preparation & Distribution, Gaithersburg, Md.	4-01-81	9-30-81
Printing and Reproduction Services, Gaithersburg, Md.	6-01-81	11-30-81
Grounds Maintenance, Gaithersburg, Md. & Boulder, Colo.	8-01-81	12-31-81
Physical/Personnel Security, Gaithersburg, Md. and Boulder, Colo.	9-30-81	2-28-82
Janitorial Services, Gaithersburg, Md. and Boulder, Colo.	10-01-81	3-31-82
Shops Management & Support Services, Gaithersburg, Md. and Boulder, Colo.	10-01-81	3-31-82

A contract or contracts may or may not result from the review of each activity. Results of the review of an activity will be made available to responding bidders or offerors, and other interested parties.

For further information, contact Robert S. Johnson, A–76 Coordinator, Office of the Director of Administrative and Information Systems, National Bureau of Standards, Washington, D.C. 20234, telephone: 301–921–2557.

Dated: July 16, 1980.

Ernest Ambler,

Director.

[FR Doc. 80–21747 Filed 7–18–80; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

ACTION: Notification of claims pursuant to Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (Title IV). Notification 3–80.

SUMMARY: 50 CFR 296.8 requires that the Chief, Financial Services Division (FSD), publish in the **Federal Register** a notice of claims received under the Title IV Program. Any interested person may, within 30 days of publication of this Notice, submit to the Chief, FSD, National Marine Fisheries Service (NMFS), evidence concerning the claim or a request to be admitted as a party to any hearing concerning the claim.

IMPORTANT DATE: Any evidence concerning any claim described in this Notice, and any request to be admitted as a party to any hearing concerning any such claim, must be submitted, in writing, to the Chief, FSD, on or before August 20, 1980.

ADDRESS: Send evidence and any request to be admitted as a party to any hearing to: Mr. Michael L. Grable, Chief, Financial Services Division, Attention: Kathryn Hensley, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C. 20235 (telephone 202 634–4688).

Supplementary Information

Title IV establishes a Fishermen's Contingency Fund (FCF) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). Title IV regulations require the publication in the **Federal Register** of a notice of each claim submitted (see 50 CFR 296.8(a)(1)(iv)). Each **Federal Register** notice published shall contain the following information: (a) a brief statement of the nature and dollar amount of the claim, and the location where the damage or loss occurred; (b) a statement that the Chief, FSD, may seek a proposed settlement agreement under 50 CFR 296.8(c); and (c) a statement that an interested person or any other person may, on or before August 20, 1980, submit to the Chief, FSD, any evidence concerning either the claim or a proposed settlement agreement.

50 CFR 296.8(a)(3)(i) provides that any interested person may submit evidence at any hearing concerning a claim in accordance with 50 CFR 296.10(d), or on any proposed settlement under 50 CFR 296.8(c). Any person who intends to submit evidence must notify the Chief, FSD, NMFS, in writing, describing specifically the evidence to be submitted not later than August 20, 1980.

Any interested person may request to be admitted as a party to any hearing which is conducted concerning the claim. Such request must be filed with the Chief, FSD, in writing, not later than August 20, 1980. Such request will be ruled on by the Administrative Law Judge (ALJ).

50 CFR 296.8(c) provides that the Chief, FSD, may contact a claimant and negotiate a proposed settlement of the claim. If the claimant agrees to a proposed settlement, the Chief, FSD, will, no sooner than August 20, 1980, forward the proposed settlement agreement to the General Counsel, NOAA. The Chief, FSD, may also forward to the General Counsel, NOAA, an agency recommendation concerning the claim. Such recommendation may be, among other things, to: (i) approve the claim, (ii) approve a proposed settlement of the claim, or (iii) deny the claim.

If the recommendation is to deny the claim, the General Counsel, NOAA, will promptly refer it to the ALJ for adjudication. If the recommendation is to approve the claim or for a proposed settlement, the General Counsel will publish a notice of the recommendation in the **Federal Register**. Not sooner than August 5, 1980, the General Counsel will send to the ALJ the claim, the Agency recommendation, any request by an interested person to submit evidence or to be admitted as a party to any hearing, and any request that an oral hearing be conducted concerning the claim. The ALJ will then adjudicate the case.

The following claims have been received:

Claim Number, Nature of Loss and Location, and Amount

FCF–10–79 On 12–17–78, claimant damaged a 75' net and lost 2 hrs fishing time while trawling for shrimp at the following coordinates:
28°54.6'N 91°47.7'W

Gear loss	$171.95
Economic loss	440.00
Total	611.95

FCF–18–79 On 12–20–78, claimant lost a 75' net, chain, webbing, mud rollers, and 4 hrs fishing time, while trawling for shrimp at the following coordinates:
28°53.8'N 92°00.9'W

Gear loss	$481.11
Economic loss	920.00
Total	1,401.11

FCF–28–79 On 12–3–78, claimant lost a 72' net, cable, rope, chain, a bag and extension, while trawling for shrimp at the following coordinates:
29°37.3'N 93°08.7'W

Gear loss	$1,666.84
Total	1,666.84

FCF–50–79 On 5–25–79, claimant damaged a 75' net and lost 2 hrs fishing time, while trawling for shrimp at the following coordinates:
29°07.1'N 89°59.8'W

Gear loss	$33.00
Economic loss	390.00
Total	423.00

FCF–51–79 On 5–21–79, claimant lost a net, bag, rope, chain, thimbles, floats, rings, and 6 hrs fishing time, while trawling for shrimp at the following coordinates:
29°00.0'N 91°30.0'W

Gear loss	$450.00
Economic loss	960.00
Total	1,410.00

FCF–72–79 On 8–6–79, claimant lost a 70' net, pair of doors, bridles, tickler chain, and 4 days fishing time, while trawling for shrimp at the following coordinates:
28°30.5'N 92°48.5'W

Gear loss	$2,500.00
Economic loss	4,700.00
Total	7,200.00

FCF–03–80 On 12–4–79, claimant lost 2–68' nets while trawling for shrimp at the following coordinates:
28°37.4'N 91°20.8'W

Gear loss	$2,331.64
Total	2,331.64

Anyone wishing to submit evidence concerning any of these claims, or to become a party to any hearing, must contact, in writing, Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, on or before August 20, 1980, (telephone (202) 634–4688).

Dated: July 14, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-21722 Filed 7-18-80; 8:45 am]

BILLING CODE 3510-22-M

Adriatic Sea World S.N.C.; Issuance of Permit

On June 10, 1980, Notice was published in the **Federal Register** (45 FR 39329), that an application had been filed with the National Marine Fisheries Service by Adriatic Sea World S.N.C., Lungomare della Repubblica, 47036 Riccione (Fo), Italy, for a permit to take four (4) Atlantic bottlenose dolphins *(Tursiops truncatus)* for the purpose of public display.

Notice is hereby given that on July 16, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Adriatic Sea World subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: July 16, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 21830 Filed 7-18-80; 8:45 am]

BILLING CODE 3510-22-M

American Cetacean Society, Maui Chapter; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:
   a. Name: The American Cetacean Society, Maui Chapter (P254).
   b. Address: P.O. Box 1518, Kihei, Maui, Hawaii 96753.
2. Type of Permit: Scientific Research/ Scientific Purposes.
3. Name and Number of Animals: Humpback Whales (Megaptera Novaengliae) 100.
4. Type of Take: Individuals within the population may be inadvertently harassed while conducting observational activities, including surface and underwater photography, sound recording, and aerial surveys.
5. Location of Activity: Waters off American Samoa.
6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before August 20, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 14, 1980.

Richard B. Roe,

Deputy Director, Office of Marine Mammals & Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-31832 Filed 7-18-80; 8:45 am]

BILLING CODE 3510-22-M

Dolfirodam B.V., Gebouw de Hoofdpoort; Issuance of Permit

On March 31, 1980, Notice was published in the **Federal Register** (45 FR 20989), that an application had been filed with the National Marine Fisheries Service by Dolfirodam B.V., Gebouw de Hoofdpoort, Blaak 101, 3011 GB Rotterdam, Netherlands for a permit to take two (2) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on July 16, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Dolfirodam subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: July 16, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-21831 Filed 7-18-80; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contract; Availability

The Commodity Futures Trading Commission ("Commission") is making available and requesting public comment on a Government National Mortgage Association—Certificate of Delivery futures contract proposed to be traded by the New York Futures Exchange, Inc. Copies of this proposed contract will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. The Commission will also furnish copies upon request made to the Commission Secretary.

Any person interested in expressing views on the terms and conditions of this proposed contract should send comments by August 20, 1980, to Ms. Jane Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581. (202) 254–6314. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington, D.C., on July 16, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-21784 Filed 7-18-80; 8:45 am]

BILLING CODE 6351-01-M

Proposed Joint Audit Plan

Under the Commodity Exchange Act, as amended ("Act"), and the Commodity Futures Trading Commission's

("Commission") minimum financial and related requirements under the Act, each self-regulatory organization ("SRO") is responsible for supervising compliance by its member futures commission merchants ("FCM") with the organization's financial requirements. In the case of FCMs which are members of more than one such organization, § 1.52 of the Commission's regulations (17 CFR 1.52 (1979)) permits the SRO's to establish a plan whereunder one of those organizations is made responsible for the necessary oversight. The principal purposes of such a plan are to eliminate what would otherwise be multiple reporting requirements for the FCM's involved, and to alleviate related auditing burdens on the SROs involved.

The Board of Trade of the City of Chicago ("CBT"), the Board of Trade of Kansas City, Missouri, Inc. ("KCBOT"), the Minneapolis Grain Exchange ("MGE"), and the MidAmerica Commodity Exchange ("MACE") have submitted such a plan, which they have termed a "Joint Audit Plan."[1]

The Commission is, hereby, publishing a summary and description of the Joint Audit Plan and requesting public comment on the plan in accordance with § 1.52(g) of its regulations. Requests for copy of the plan may be made to the Executive Secretariat. The parties submitting the plan have asked that certain portions thereof, including information on costs for auditing services, and how the parties to the plan shall be assessed for such costs, as well as the travel guidelines for auditors, be given confidential treatment. Any request for a copy of the plan, unless the requestor specifically states otherwise, will be deemed to be a request for only those portions of the plan not covered by the petition for confidential treatment. If a request for a copy of the entire plan is made, then such request and the petition for confidential treatment shall be considered under the Freedom of Information Act (5 U.S.C. 552), and the Commission's regulations promulgated thereunder.

Any person interested in expressing views on the proposed Joint Audit Plan should send comments on or before [30 days after publication in the **Federal Register**] to Ms. Jane K. Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581. For further information, contact Daniel A. Driscoll, Chief Accountant, Division of Trading and Markets, at the same address. Telephone (202) 254–8955. Copies of all comments will be available at the Commission's Washington office.

Supplementary information: On August 29, 1978, the Commission adopted Section 1.52 as part of its minimum financial regulations. Section 1.52(a) requires each SRO to adopted, and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all of its members who are registered FCMs. Section 1.52(b) requires each SRO to have in effect and enforce such minimum financial and related reporting requirements which have been approved by the Commission.

Section 1.52(c) provides that any two or more SROs may file with the Commission a plan for delegating to a designated self-regulatory organization ("DSRO"), with respect to any FCM which is a member of more than one such SRO, the responsibility for: (1) Monitoring and auditing compliance with the minimum financial and related reporting requirements adopted by such SROs pursuant to § 1.52(a); and (2) receiving the financial reports necessitated by such minimum financial and related reporting requirements.[2]

The joint audit plan submitted by the CBT, KCBOT, MGE and MACE provides for each of the delegations permitted by § 1.52(c), and the following summary of the plan was filed by the participating SROs as part of their submission:

The CBT, KCBOT, MGE and MACE have entered into a joint Audit Plan pursuant to (§ 1.52 of the Commission's regulations). This section provides for the allocation of regulatory responsibilities to Designated Self-Regulatory Organizations ("DSROs"). The [exchanges] participating in this plan believe that it will help those Futures Commission Merchants ("FCMs") who are members of two or more participating [exchanges] in the following ways: (1) Reduce the multiple monitoring and auditing for compliance with the minimum financial rules; and (2) reduce multiple reporting of the financial information necessitated by such minimum financial requirements.

This plan allows one (exchange) to be the DSRO for any FCM which is a member of two or more participating [exchanges]. It is intended that non-DSRO participating [exchanges] will not be required to visit a member firm which is not assigned to it except for the purpose of conducting special reviews. This plan does not, however, preclude a non-DSRO participating [exchange] from visiting a member firm whenever and for whatever reason it deems necessary.

If the review or audit conducted by the designated DSRO discloses a possible violation of the rules of another exchange for which compliance is being monitored, it will be the responsibility of that other exchange to take whatever further action it deems appropriate.

The DSRO's and the FCM's for which those DSRO's would have responsibility under the proposed plan are as follows:

Chicago Board of Trade—FCM's

A & D Commodities
ACLI International Commodity Services, Inc.
Agra Trading, Inc.
Alpha Futures
Andersons, The
Anspacher & Associates, Inc.
Bache, Halsey, Stuart, Shields, Inc.
Balfour Maclaine, Inc.
Bear, Stearns & Co.
Berry Trading Co.
Bielfeldt, Lauritsen & Hagemeyer
Blunt Ellis & Loewi, Inc.
Brody, White & Co., Inc.
Brown & Co., Inc., K.J.
Cargill Investor Services, Inc.
Checkerboard Grain Co. of Chicago
Chicago Corporation, The
Chicago Grain Co.
Christensen, Geldermann & Monaster, Ltd.
Clayton Brokerage Co. of St. Louis Inc.
Collins Commodities Inc.
Combs & Sons, E.M.
ContiCommodity Services Inc.
Corman & Co., H.
Cowen & Co.
CSA, Inc.
Dean Witter Reynolds, Inc.
Dorman Grain
Drexel Burnham Lambert, Inc.
Easton & Co.
Edwards & Sons, Inc., A.G.
Eisen & Blum, Inc.
Fahnestock & Co.
Farmers Commodities Corporation
Famers Union Grain Terminal Association
Ferguson Grain Company
Friedman & Co., Ray E.
Garvey Commodities
Geldermann & Co., Inc.
Gerstenberg & Co.
Goldberg Brothers
Goldman Sachs & Co.
Goodman-Manaster & Co.
Granger & Co.
Griffin Trading Co.
Gulf, Great Lakes Grain Ltd.
Hagerty Grain Co., Inc.
Heinold Commodities, Inc.
Hennessy & Associates
Howard, Weil, Labouisse, Friedrichs, Inc.
Hutton & Co., E.F.
Illinois Cooperative Futures Co.
Iowa Grain Co.
Justin & Skydell, Inc.
Kelly Grain Company
Kern & Co., Norman
Kipnis & Co., Becker A.G.
L.D. Commodity Corp.
Lincoln-Staley Commodities, Inc.
Lincolnwood, Inc.
Lonray Sugar, Inc.
Maduff & Sons, Inc.

[1] Another such plan, involving seven commodity exchanges, including the MidAmerica Commodity Exchange, was approved by the Commission on April 23, 1980.

[2] Section 1.52(c) also permits the delegation, pursuant to such a joint audit plan, of the function that each contract market is required to undertake, pursuant to § 1.51(a)(3) of the regulations, to adopt and enforce rules relating to the examination of books and records of its member FCMs reflecting the dealing of those FCMs in such market and related cash commodity transactions.

Mayer-Gelbort, Inc.
McCormick Commodities, Inc.
McKerr & Co., James T.
Merrill Lynch, Pierce, Fenner & Smith, Inc.
Mid-Co Commodities, Inc.
Morris, Morris & Co.
O'Connor Grain Co.
O'Donnell Grain Co.
Pacific Commodities
Paine, Webber, Jackson & Curtis, Inc.
Peavey Company
Peters & Co.
Pillsbury Company, The
Piper, Jaffray & Hopwood, Inc.
Plaza Clearing Corp.
Produce Grain, Inc.
Richardson Securities, Inc.
Riffel & Co., A.J.
Ritten & Co., Inc., Louis N.
Rodman & Renshaw, Inc.
Rosenthal & Co.
Ryan & Co., Lawrence J.
S & W Grain Company
Salomon Brothers
Scoular-Bishop of Missouri, Inc.
Servonet Corp.
Shatkin Trading Co.
Shearson Hayden Stone, Inc.
Smith Barney, Harris Upham & Co., Inc.
Spencer Company, T.J.
Stern & Co., Ltd., Lee B.
Stotler & Co.
Tabor Grain Co.
Thomson McKinnon Securities, Inc.
Tradelink Corp.
Truebner & Company, Inc.
Wheat First Securities, Inc.

Kansas City Board of Trade—FCM's

Bartlett Commodity Investors, Inc.
Christopher & Co., B.C.
Far Mar Company
Geisel Grain Company
Masters Grain Company
M.F.A. Commodities
Myers & Co.
Polonyi & Company, A.S.
Shay Grain Clearing Co., Inc.
Simonds-Shields-Theis Grain Company, Inc.
Smoot Grain Company, Inc.
Union Equity Cooperative Exchange
Wolcott & Lincoln, Inc.

Minneapolis Grain Exchange—FCM's

Atwood Larson Company
Benson-Quinn Commodities, Inc.
Kellog Commission Co.

MidAmerica Commodity Exchange—FCM's

Archer Commodities, Inc.

Issued in Washington, D.C., on July 16, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-21785 Filed 7-18-80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Southwest Oregon Area Service, Buckley-Summer Lake 500-kV Line, Final Facility Location Supplement to Fiscal Year 1979 Proposed Program Environmental Impact Statement, Notice of Availability of Final Environmental Statement

Notice is hereby given that the Bonneville Power Administration (BPA), in compliance with the National Environmental Policy Act of 1969, has prepared and is distributing the Final Facility Location Supplement, Southwest Oregon Area Service, Buckley-Summer Lake 500-kV Line. This document supplements BPA's Final Fiscal Year 1979 Proposed Program Environmental Impact Statement (EIS). It assesses the environmental impacts of the proposed 156-mile Buckley-Summer Lake 500-kV transmission line; the proposed Buckley Substation near Maupin, Oregon; and the proposed Summer Lake Substation near Silver Lake, Oregon.

Copies of the supplement are available for public inspection at designated Federal depositories (for locations, contact the Environmental Manager, Bonneville Power Administration) and at Department of Energy public document rooms located at:

Library, FOI—Public Reading Room 5B180, Forrestal Building, 1000 Independence Avenue NW., Washington, D.C.;

BPA, Washington, D.C., Office, Room 3352, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C.; and in the following BPA Area Office:

Walla Walla Area Office, West 101 Poplar, P.O. Box 1518, Walla Walla, Washington 99362.

Copies have also been furnished to those who commented on the draft location supplement.

Single copies are available upon request; contact the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208, or the BPA Area Office listed above.

Dated at Portland, Oregon, this 17th day of June, 1980.

Sterling Munro,

Administrator.

[FR Doc. 80-21735 Filed 7-18-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Order Granting Special Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby sets forth its Order proposing to grant special temporary public interest exemptions from the prohibitions of Sections 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.*, pursuant to Section 311(e) of FUA, 10 CFR 501.68, and 10 CFR 508, to the following powerplants:

Case control No.	Petitioner	Generating station	Unit identification No.	Location
50135-3548-02-41	City of Austin	Decker	2	Austin, Tex.
50318-3628-02-41	Brazos Electric Power Cooperative, Inc.	R. W. Miller	2	Palo
50318-3628-03-41			3	Pinto, Tex.
50412-1594-12-41	Cambridge Electric Light Company	Blackstone Street	12	Cambridge, Mass.
50499-6516-01-41	Central Telephone and Utilities Corp. Southern Colorado Power Division.	Rocky Ford	1	Rocky Ford, Colo.
50499-0460-04-41		Pueblo	4	Pueblo, Colo.
50499-0460-05-41			5	
50499-0460-06-41			6	
50499-9164-03-41	Central Telephone and Utilities Corp. Western Power Division.	Judson Large	3	Dodge City, Kans.
50499-9164-04-41			4	
50499-9165-01-41		Arthur Mullergren	1	Great Bend, Kans.
50499-9165-02-41			2	
50499-9165-03-41			3	
61029-9155-21-41	City of Cleveland	West 41st Street	GT 1	Cleveland, Ohio.
61029-9155-22-41			GT 2	
61029-9154-23-41		Collinwood	GT 3	Cleveland, Ohio.
50643-0877-31-41	Commonwealth Edison	Lombard	CT 31-1	Lombard, Ill.
50643-0877-32-41			CT 31-2	
50643-0877-33-41			CT 32-1	
50643-0877-34-41			CT 32-2	
50643-0877-35-41			CT 33-1	
50643-0877-36-41			CT 33-2	
50643-0875-31-41		Joliet	CT 31-1	Joliet, Ill.

Case control No.	Petitioner	Generating station	Unit identification No.	Location
50643-0875-32-41			CT 31-2	
50643-0875-33-41			CT 31-3	
50643-0875-34-41			CT 31-4	
50643-0875-35-41			CT 32-1	
50643-0875-36-41			CT 32-2	
50643-0875-37-41			CT 32-3	
50643-0875-38-41			CT 32-4	
50643-0866-31-41		Calumet	CT 31-1	Chicago, Ill.
50643-0866-32-41			CT 31-2	
50643-0866-33-41			CT 31-3	
50643-0866-34-41			CT 31-4	
50643-0866-35-41			CT 33-1	
50643-0866-36-41			CT 33-2	
50643-0866-37-41			CT 33-3	
50643-0866-38-41			CT 33-4	
50643-0866-39-41			CT 34-1	
50643-0866-40-41			CT 34-2	
50643-0866-41-41			CT 34-3	
50643-0866-42-41			CT 34-4	
50643-0870-31-41		Electric Junction	CT 31-1	Aurora, Ill.
50643-0870-32-41			CT 31-2	
50643-0870-33-41			CT 31-3	
50643-0870-34-41			CT 31-4	
50643-0870-35-41			CT 32-1	
50643-0870-36-41			CT 32-2	
50643-0870-37-41			CT 32-3	
50643-0870-38-41			CT 32-4	
50643-0870-39-41			CT 33-1	
50643-0870-40-41			CT 33-2	
50643-0870-41-41			CT 33-3	
50643-0870-42-41			CT 33-4	
50781-1822-05-41	City of Detroit, Public Lighting Dept	Mistersky Power Station	5	Detroit, Mich.
50781-1822-06-41			6	
50781-1822-07-41			7	
50782-9077-14-41	Detroit Edison	Delray	1	Detroit, Mich.
50782-9077-15-41			7	
50782-9077-16-41			8	
50782-9077-17-41			9	
50782-9077-18-41			10	
50782-9077-19-41			11	
50782-9077-20-41			12	
50782-1726-15-41		Conner's Creek	13	Detroit, Mich.
50904-6223-21-41	Empire District Electric Company	Empire Energy Center.	CT 1	Sarcoxie, Mo.
50904-6223-22-41			CT 2	
51121-0377-58-41	City of Glendale California Public Service Dept I23Plant	Grayson Power	CC 8	Glendale, Calif.
51150-2242-01-41	City of Grand Island Utility Department	Pine Street	1	Grand Island, Nebr.
51150-2241-01-41		Burdick	1	Grand Island, Nebr.
51150-2241-02-41			2	
51150-2241-03-41			3	
51381-8065-21-41	Idaho Power Company	Wood River	CT 1	Hailey, Idaho.
51388-9006-21-41	Imperial Irrigation District	Rockwood	CT 1	Brawley, Calif.
51478-1244-04-41	Kansas Gas & Electric Company	Ripley	4	Wichita, Kans.
51478-1244-05-41			5	
51479-1248-01-41	The Kansas Power & Light Co	Hutchinson	1	Hutchinson, Kans.
51479-1248-02-41			2	
51479-1248-03-41			3	
51549-1443-03-41	City of Lafayette Utilities	Doc Bonin	3	Lafayette, La.
54020-3112-21-41	Metropolitan Edison	Orrtanna	CT 1	Orrtanna, Pa.
54020-3109-21-41		Hamilton	CT 1	Abbottstown, Pa.
54020-3114-21-41		Shawnee	CT 1	Montroe, Pa.
54020-3111-21-41		Mountain	CT 1	Mt. Holly Springs, Pa.
54020-3111-22-41			CT 2	
54020-3110-21-41		Hunterstown	CT 1	Hunterstown, Pa.
54020-3110-22-41			CT 2	
54020-3110-23-41			CT 3	
52000-1606-01-41	New Bedford Gas & Edison Light Co	Cannon Street	1	New Bedford, Pa.
52000-1616-02-41			2	
52000-1616-03-41			3	
65016-9152-04-41	Owatonna Public Utilities	Owatonna Power Plant	4	Owatonna, Minn.
65016-9152-05-41			5	
65016-9152-06-41			6	
52370-3043-22-41	Portland General Electric	Bethel	CT 2	Salem, Oreg.
52370-9138-21-41		Beaver	CC 1	Clatskanie, Oreg.
52370-9138-22-41			CC 2	
52370-9138-23-41			CC 3	
52370-9138-24-41			CC 4	
52370-9138-25-41			CC 5	
52370-9138-26-41			CC 6	
52564-8068-51-41	Salt River Project	Santan	CC 1	Gilbert, Ariz.
52564-8068-52-41			CC 2	
52564-8068-53-41			CC 3	
52564-8068-54-41			CC 4	
52658-2330-01-41	Sierra Pacific Power Co	Fort Churchill	1	Wabuska, Nev.
52658-2336-01-41		Tracy	1	Reno, Nev.
52658-2336-02-41			2	
52658-2336-03-41			3	
52721-0329-53-41	Southern California Edison Company	Cool Water	CC 3	Daggett, Calif.

Case control No.	Petitioner	Generating station	Unit identification No.	Location
52721-9329-54-41			CC 4	
53256-3517-04-01	West Texas Utilities Co.	Abilene	4	Abilene, Tex.
53256-3518-04-41		Concho	4	San Angelo, Tex.
53256-4938-01-41		Fort Phantom	1	Abilene, Tex.
53256-4938-02-41			2	
53256-3521-01-41		Lake Pauline	1	Quanah, Tex.
53256-3521-02-41			2	
53256-3523-01-41		Oak Creek	1	Blackwell, Tex.
53256-3524-01-41		Paint Creek	1	Haskell, Tex.
53256-3524-02-41			2	
53256-3524-03-41			3	
53256-3524-04-41			4	
53256-3526-06-41		Rio Pecos	6	Girvin, Tex.

I. Statutory Prohibitions

The above listed powerplants are prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source, or are prohibited from using gas as a primary energy source in excess of the average base year proportions allowed in Section 301(a)(3) of the Act.

II. Eligibility for Exemption

The existing powerplants listed above have submitted petitions to ERA for a Special Temporary Public Interest Exemption and have asserted that:

a. Each existing powerplant is:

1. Prohibited on May 8, 1979 from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or

2. Prohibited from using natural gas in excess of the average base year proportions allowed in Section 301(a)(3) of FUA.

b. The proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA:

1. Will displace consumption of middle distillate or residual fuel oil; and

2. Will not displace the use of coal or any other alternate fuel in any facility of the owner/operator utility system, including the powerplant for which the exemption was submitted.

III. Rationale

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The expanded use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption. This increased use of natural gas will help the United States meet its commitment to reduce its demand for imported petroleum products, protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have had a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that this increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency. This is in keeping with purposes of FUA and is in the public interest.

Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria established in Section 508.2 of the Special Rule (April 9, 1979, 44 FR 21230), ERA proposes to grant the exemptions.

IV. Duration

ERA proposes to grant these temporary public interest exemptions generally as follows:

1. In no case will any exemption granted extend beyond June 30, 1985, or exceed a maximum of 5 years including the period of time during which the petition was pending if the petitioner used natural gas during such period, whichever termination point occurs first.

2. To those facilities that will displace middle distillate fuel oil until June 30, 1985, subject to the limitations described in item 1, above.

3. To those facilities that will displace residual oil with a sulfur content of 0.5 percent or less, for an initial period of two years, with an automatic extension of up to three years subject to the limitations described in item 1, above, upon ERA's written acceptance of a fuel conservation plan filed by the petitioner consistent with the terms and conditions set forth below.

4. To those facilities that will displace residual oil with a sulfur content greater than 0.5 percent, for an initial period ending November 30, 1981, with provision for an extension subject to the limitations described in item 1, above, at ERA's option based on an appropriate request filed by the petitioner.

These proposed temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

V. Terms and Conditions

Pursuant to the authority of Section 314 of FUA and 10 CFR 508.6, ERA will require the order recipient upon issuance of a final order to: (1) report the actual monthly volumes of natural gas used in each exempted powerplant and the estimated number of barrels of each type of fuel oil displaced during the exemption period, (2) submit a system-wide fuel conservation plan to include the period covered by the temporary exemption, and (3) submit annually to ERA a report on progress achieved in implementing the system-wide fuel conservation plan.

Issued in Washington, D.C. on July 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-21685 Filed 7-18-80; 8:45 am]

BILLING CODE 6450-01-M

Receipt of Petition for Temporary Public Interest Exemptions for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978 and Proposed Order Granting the Temporary Exemptions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Petitions and Proposed Orders.

SUMMARY: A number of petitions have been received and filed with the Economic Regulatory Administration

(ERA) of the Department of Energy (DOE) for temporary public interest exemptions for the use of natural gas as a primary energy source. Such exemptions are authorized by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, November 9, 1978, (FUA or the Act). The owners/operators of the powerplants have provided the following information:

Petitioner generating station	Unit identification	Maximum quality of oil displaced (barrels/per day)	Type of oil displaced	Coal or alternate fuel displaced
City of Austin (Decker)	2	31	Distillate No.	
Brazos Electric Power Cooperative, Inc. (R. W. Miller).	2	24	Distillate	No.
	3			
Cambridge Electric Light Co. (Blackstone Street).	12	102	Residual	No.
Central Telephone and Utilities—Southern Colorado Power Division (Rocky Ford).	1	2.7	Residual	No.
(Pueblo)	4	11.9	Distillate	No.
	5			
	6			
Central Telephone and Utilities—Western Power Division (Judson Large).	3	707.6	Residual	No.
	4			
(Arthur Mußergren)	1	151.3	Residual	No.
	3			
	2			
City of Cleveland (West 41st Street)	GT 1	28.3	Distillate	No.
	GT 2			
(Collin-wood)	GT 3	18.8	Distillate	No.
Commonwealth Edison (Lombard)	CT 31-1	903.5	Distillate	No.
	CT 31-2			
	CT 32-1			
	CT 32-2			
	CT 33-1			
	CT 33-2			
(Joliet)	CT 31-1	1,113.1	Distillate	No.
	CT 31-2			
	CT 31-3			
	CT 31-4			
	CT 32-1			
	CT 32-2			
	CT 32-3			
	CT 32-4			
(Calumet)	CT 31-1	1,756.1	Distillate	No.
	CT 31-2			
	CT 31-3			
	CT 31-4			
	CT 33-1			
	CT 33-2			
	CT 33-3			
	CT 33-4			
	CT 34-1			
	CT 34-2			
	CT 34-3			
	CT 34-4			
(Electric Junction)	CT 31-1	1,151.8	Distillate	No.
	CT 31-2			
	CT 31-3			
	CT 31-4			
	CT 32-1			
	CT 32-2			
	CT 32-3			
	CT 32-4			
	CT 33-1			
	CT 33-2			
	CT 33-3			
	CT 33-4			
City of Detroit Public Lighting Dept. (Mistersky Power Station).	5	927	Residual	No.
	6			
	7			
Detroit Edison (Delray)	1	756	Residual	No.
	7			
	8			
	9			
	10			
	11			
	12			
(Conner's Creek)	13	6	Distillate	No.
Empire District Electric Co. (Empire Energy Center).	CT 1	1,144	Distillate	No.
	CT 2			
City of Glendale, California Public Service Dept. (Grayson Power Plant).	CC 8	433	Distillate	No.
City of Grand Island Utility Department (Pine Street).	1	0.9	Residual	No.

Petitioner generating station	Unit identification	Maximum quality of oil displaced (barrels/per day)	Type of oil displaced	Coal or alternate fuel displaced
(Burdick)	1	641.4	Residual	No.
	2			
	3			
Idaho Power Company (Wood River)	CT 1	174	Distillate	No.
Imperial Irrigation District (Rockwood)	CT 1	168	Distillate	No.
Kansas Gas & Electric Company (Ripley).	4	162	Residual	No.
	5			
Kansas Power and Light Company (Hutchinson).	1	29.0	Residual	No.
	2			
	3			
City of Lafayette Utilities (Doc Bonin)	3	5,697.1	Distillate	No.
Metropolitan Edison (Orrtanna)	CT 1	46.5	Distillate	No.
(Hamilton)	CT 1	64.6	Distillate	No.
(Shawnee)	CT 1	12.2	Distillate	No.
(Mountain)	CT 1	27.3	Distillate	No.
	CT 2			
(Hunterstown)	CT 1	197.5	Distillate	No.
	CT 2			
	CT 3			
New Bedford Gas & Edison Light Company (Cannon Street).	1	1,014	Residual	No.
	2			
	3			
Owatonna Public Utilities (Owatonna Power Plant).	4	1,164	Residual	No.
	5			
	6			
Portland General Electric (Bethel)	CT 2	301.4	Distillate	No.
(Beaver)	CC 1	3,287.7	Distillate	No.
	CC 2			
	CC 3			
	CC 4			
	CC 5			
	CC 6			
Salt River Project (Santan)	CC 1	2,784.2	Residual	No.
	CC 2			
	CC 3			
	CC 4			
Sierra Pacific Power Co. (Fort Churchill).	1	813.7	Residual	No.
	2			
(Tracy)	1	1,686.6	Residual	No.
	2			
	3			
Southern California Edison Company (Cool Water).	CC 3	1,400	Distillate	No.
	CC 4			
West Texas Utilities Company (Abilene).	4	0.01	Residual	No.
(Concho)	4	13.1	Residual	No.
(Fort Phantom)	1	912	Residual	No.
	2			
(Lake Pauline)	1	20	Residual	No.
	2			
(Oak Creek)	1	150.8	Residual	No.
(Paint Creek)	1	0.13	Residual	No.
	2			
	3			
	4			
		0.03	Distillate	No.
(Rio Pecos)	6	1.04	Distillate	No.

FUA became effective on May 8, 1979. The Act prohibits the use of natural gas as a primary energy source in certain existing powerplants and also authorizes an exemptions procedure in regard to that and other prohibitions.

ERA is proposing to issue orders which would grant temporary public interest exemptions to all of the petitioners enumerated above, pursuant to the authority of Section 311(e) of FUA and 10 CFR 508, published by ERA on April 9, 1979 (44 FR 21230). These proposed orders, when finalized, would grant a temporary exemption to the subject powerplants from the prohibition against natural gas use, contained in Sections 301(a)(2) and (3) of FUA.

ERA is publishing this notice of petitions filed and its proposed order to grant these exemptions, to invite interested persons to submit written comments pursuant to the requirements of FUA. In addition, any interested person may request that a public hearing be convened in regard to these petitions under the provisions of Section 701(d) of FUA.

DATES: Written comments relating to these petitions and the proposed order are due on or before August 29, 1980. Requests for a public hearing are also due on or before August 29, 1980.

ADDRESSES: Requests for a public hearing and/or 10 copies of written comments shall be submitted to:

Department of Energy, Case Control Unit, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–4055.

Robert L. Davies (Offices of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3002, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653–3649.

Marx Elmer (Office of General Counsel), Department of Energy, Room 6G–087, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2967.

SUPPLEMENTARY INFORMATION: On April 9, 1979, ERA issued a final rule implementing the authority granted to DOE by Section 311(e) of FUA. This final rule, set forth in 10 CFR Part 508, establishes the policy ERA has adopted in implementing its authority under Section 311(e) of FUA and the eligibility criteria, which petitioners for the temporary exemption must demonstrate. This temporary exemption will allow certain existing electric powerplants to use natural gas as a primary energy source in excess of the amounts which are mandated by Sections 301(a)(2) and (3) of FUA.

The use of natural gas, permitted under these temporary exemptions, will allow existing electric powerplants to displace distillate and residual fuel oils as their primary energy source.

This expanded use of natural gas in these powerplants will be a significant step toward reducing our short term oil consumption and will help the United

States in meeting its goals to reduce its demand for imported oil, protect the Nation from the effects of any oil shortages, and will serve to cushion the impact of increasing world oil prices.

The above listed owners/operators have filed petitions with ERA to request a temporary public interest exemption for their existing electric powerplants. ERA has reviewed their petitions and has found that the powerplants meet the eligibility criterial established in Part 508.2 of the final rule (44 FR 21230).

ERA intends, in its proposed orders, to grant temporary public interest exemptions for the above listed powerplants. The proposed orders are set forth following this notice.

This is not the final notice of petitions and proposed orders under the final rule. ERA will continue to comply with the requirements of Section 701(c) of FUA and will publish further notices as petitions are received and accepted.

Special temporary public interest exemption granted to the above listed powerplants will not in any case extend beyond June 30, 1985, or exceed a maximum of 5 years including the period of time during which the petition was pending if the petitioner used natural gas during such period, whichever termination point occurs first.

Issued in Washington, D.C., on July 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-21684 Filed 7-18-80; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement ERA, and the firms listed below during the month of April 1980. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than four inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing and discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact James C. Easterday, District Manager, Southeast District, Department of Energy, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367 telephone number (404) 881-2396.

Issued in Atlanta, Georgia, on the 3rd day of July 1980.

James C. Easterday,

District Manager.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel.

Firm Name, Firm Address, and Audit Date

Las Olas Chevron, 1415 E. Las Olas, Ft Lauderdale, FL 33301, 4-1-80.
Francisco Canales, 345 N. Federal Hwy, Dania, FL 33004, 4-1-80.
Park Service Chevron, 2141 N. State Rd 7, Hollywood, FL 33021, 4-1-80.
University Service, 6790 S.W. 57th St, Miami, FL 33143, 4-1-80.
North Bay Service, 1501 79th St Causeway, Miami, FL 33141, 4-2-80.
Nick's Standard Service, 11650 Biscayne Blvd, N Miami, FL 33161, 4-2-80.
Camay Gomez, 3080 N.W. 54th Street, Miami, FL 33042, 4-2-80.
Widner Village Standard, 801 E. 25th Street, Hialeah, FL 33010, 4-2-80.
Face's Chevron, 11815 N.E. 2nd Ave, N Miami, FL 33161, 4-2-80.
Samuel Greenfeld, 1508 79th Causeway, North Bay Village, FL 33141, 4-2-80.
S. V. Donelson, 7375 Miami Lakes Dr., Miami, FL 33014, 4-3-80.
Kings Bay Standard, 14395 S. Dixie Hwy, Miami, FL 33176, 4-3-80.
A & C Chevron, 17501 S. Dixie Hwy, Miami, FL 33157, 4-3-80.
South Miami Chevron, 6180 S. Dixie Hwy, Miami, FL 33143, 4-3-80.
Al's Chevron, 10 N.W. 167th St, Miami, FL 33169, 4-3-80.
Thomas D. Akins, Jr., 1405 St. Augustine Road, Valdosta, GA 31601, 4-3-80.
A. Alonso & J Acosta, 6120 N.W. 27th Avenue, Miami, FL 33142, 4-4-80.
Kendall Chevron, 9095 S. Dixie Highway, Miami, FL 33156, 4-6-80.
Ja Mar Mobil, 8900 Park Blvd., Seminole, FL 33543, 4-8-80.
Garden St. Shell, 1390 Garden Street, Titusville, FL 32780, 4-8-80.
Lambright Exxon, 6701 N. Dale Mabry, Tampa, FL 33614, 4-8-80.
Greiner Service Station, 1120 W. Main Street, Leesburg, FL 32748, 4-9-80.
Gibson's Exxon, 5790 34th Street N., St. Pete, FL 33714, 4-9-80.
Mainland's Chevron, 9121 U.S. 19 N., Pinellas Park, FL 33565, 4-9-80.
Wright's Texaco, 1119 South Main Street, Leesburg, FL 32748, 4-9-80.
Carrollwood Exxon, 10321 N. Dale Mabry, Tampa, FL 33618, 4-9-80.
Elmer's Chevron, 600 N. Ridgewood, Holly Hills, FL 32017, 4-10-80.
Buddy's Texaco, 606 Silver Beach Avenue, Daytona Beach, FL 32018, 4-10-80.
Chapman Chevron, 198 N A 1 A, Satelite Beach, FL 32937, 4-10-80.
Buddy's Union 76, 1102 South Atlantic, Daytona Beach, FL 32018, 4-10-80.
Alvarez Exxon, 1798 N.W. 183rd St., Miami, FL 33154, 4-3-80.
Paul R. Skinner, 601 N.W. 103rd Street, Miami, FL 33150, 4-3-80.
Bill Taylor, U.S. 27, Falmouth, KY 41040, 4-3-80.
Bill's Chevron, 3415 Decoursey Ave., Covington, KY 41015, 4-4-80.
Kendall Sunoco, 8797 S. Dixie Hwy, Miami, FL 33143, 4-4-80.
Wayne's Standard, 12505 W. Dixie Hwy, Miami, FL 33164, 4-4-80.
N. Miami Standard, 13475 N.E. 2nd Ct., N Miami, FL 33161, 4-4-80.
Broadview Standard, 639 Morosgo Drive, Atlanta, GA 30304, 4-4-80.
Rogers Exxon, 10499 Gulf Blvd., Treasure Island, FL 33706, 4-7-80.
B & T Service Center, 3959 Central Avenue, St Petersburg, FL 33711, 4-10-80.
Denny's, 5800 Central Avenue, St Petersburg, FL 33707, 4-10-80.
Candler I-20 Chevron, 2578 Candler, Decatur, GA 30032, 4-10-80.
Coley's Texaco, 72 150 Avenue, Madeira Beach, FL 33708, 4-11-80.
La Grou's Standard, 5400 66th Street North, St Petersburg, FL 33709, 4-11-80.
Smith Shell Mart, 16451 Gulf Blvd., Reddington Beach, FL 33708, 4-11-80.
Art's Chevron, I-95 and 520, Cocoa, FL 32922, 4-10-80.
Satelite Beach Chevron, 1107 South Patrick, Satelite Beach, FL 32937, 4-10-80.
Interstate Exxon, 2135 N. Green Street, Tampa, FL 33607, 4-10-80.
Friendly Auto Service, 4001 N. Armenia, Tampa, FL 33607, 4-10-80.
Dick's Standard Service, 845 Volusia Avenue, Daytona Beach, FL 32014, 4-11-80.
Mike's Texaco, 2250 South Atlantic, Daytona Beach, FL 32018, 4-11-80.
Mitchell's Exxon, 1541 S. Ridgewood, Daytona Beach, FL 32014, 4-11-80.
Summers Standard, 1600 S. Nova Road, Daytona Beach, FL 32014, 4-11-80.
Danny Hughes, 729 Broadway, Daytona Beach, FL 32018, 4-11-80.
Patients Shell Service, 304 N A 1 A & Sea Park Blvd., Satelite Beach, FL 32937, 4-11-80.

Ridgewood Standard, 300 N Ridgewood, Daytona Beach, FL 32014, 4–14–80.
Williams Service Center, 100 Central Ave., East, Winter Haven, FL 33880, 4–15–80.
Five Town Texaco, 86 W Highway 436, Altamonte Springs, FL 32701, 4–15–80.
George's Texaco, 3585 Chaney Highway, Titusville, FL 32780, 4–15–80.
J J Exxon, 405 Cobb Parkway S., Marietta, GA, 4–16–80.
Marina Point Ships Store, 500 1st Ave N.E., St Petersburg, FL 33701, 4–11–80.
Airport Gulf, 2750 Manchester Expressway, Columbus, GA 31904, 4–15–80.
Clements Exxon, 9080 Hwy 72, Germantown, TN 38138, 4–15–80.
Adam's Texaco, 1800 Union Avenue, Memphis, TN 38104, 4–16–80.
Cross Roads Grocery, RFD 2, Leeds, AL 35094, 4–16–80.
York River Yacht Haven, P.O. Box 296, Clouster Pt., VA, 4–16–80.
Barton's Gulf, 694 Riverside, Memphis, TN 38114, 4–17–80.
Ballinger's Poplar Gulf, 4585 Poplar, Memphis, TN 38117, 4–18–80.
Evans Holiday Chevron, 4806 Brownsboro Rd., Louisville, KY 40222, 4–22–80.
Manuel Vecino, 2190 N W 36th Street, Miami, FL 33142, 4–23–80.
Town & Country Gulf, 2743 Reynolds Rd., Winston Salem, NC 27106, 4–25–80.
Konnoake Gulf, 3551 S. Main St., Winston Salem, NC, 4–25–80.
Holiday West Gulf, 2020 Hawthorne Rd., Winston Salem, NC 27103, 4–25–80.
Buena Vista Gulf, 1100 Reynolds Road, Winston Salem, NC 27105, 4–25–80.
Ogburn Station Gulf, 4334 Liberty Street, Winston Salem, NC 27105, 4–25–80.
Scott's Shell, 600 Cypress Gardens Blvd., Winter Haven, FL 33880, 4–16–80.
John Rodemeyer, 690 3rd Avenue, New Smyrna Bch, FL, 4–17–80.
I–75 Texaco, I–75 and U.S. 50, Brooksville, FL 33512, 4–18–80.
Charles E Kruppner, I–75 and U.S. 50, Brooksville, FL, 4–18–80.
Jones Texaco, 301 S. Orange Blossom Trail, Orlando, FL 32805, 4–18–80.
Yeackle Shell Service, Rt 1, Box 131F, Sanford, FL 32771, 4–18–80.
Monroe Harbor Marina, 531 N Palmetto, Sanford, FL 32721, 4–18–80.
Gregory's Shell Service, 5818 W. Manatee & 59th, Bradenton, FL 33505, 4–18–80.
Stuckey's Inc., P.O. Box 370, Eastman, GA 31023, 4–21–80.
Emory Station, 1574 N. Decatur, Atlanta, GA 30307, 4–22–80.
Jose Castilio, 1695 N.W. 183rd Street, Miami, FL 33169, 4–23–80.
Michael T. Maniscalco, 16380 W. Dixie Highway, N. Miami Beach, FL 33160, 4–23–80.
Peterson's Interstate, 600 Diamond Road, Pensacola, FL 32504, 4–30–80.
Joe's Standard, 1106 Parkway Dr. S.E., Leeds, AL 35094, 4–25–80.
Stinson Gulf Interstate, Route E, Evergreen, AL 36401, 4–29–80.
Dave Waiters Texaco, 1515 Sunset Drive, Miami, FL 33143, 4–29–80.
Gabriel Sanchez Texaco, 1195 N.W. 167th Street, Miami, FL 33169, 4–29–80.
Lemon City Sv Station, 421 N.E. 61st Street, Miami, FL 33137, 4–30–80.
Tremont Service Station, 1750 Alton Road, Miami Beach, FL 33139, 4–30–80.
Jans Texaco, 1145 5th Street, Miami Beach, FL 33139, 4–30–80.
Tippins 66 Service, 971 Volusca Avenue, Daytona Beach, FL 32014, 11–08–79.
Jerry Nix, 203 Sycamore Street, Gainesville, GA 30501, 02–25–80.
Tom Smith, 126 N Milledge Avenue, Athens, GA 30601, 03–26–80.
Ubaldo Di-Lella, 1295 SE 8th Avenue, Hialeah, FL 33010, 03–31–80.
Severa Vidaud, 1000 N E 79th Street, Miami, FL 33138, 03–31–80.
L.S. Sunoco, 650 Opa Locka Blvd., N. Miami, FL 33168, 04–02–80.
Mark Fussell, North Valdosta Road, Lake Park, GA 31636, 4–03–80.
Monroe Carr, Highway 82, Tifton, GA 31794, 4–03–80.

[FR Doc. 80–21798 Filed 7–18–80; 8:45 am]
BILLING CODE 6450–01–M

[Docket PP–72]

Jersey Central Power & Light Co.; Application for Presidential Permit

AGENCY: Department of Energy, Economic Regulatory adiministration.

ACTION: Notice of application by Jersey Central Power & Light Company for Presidential permit for an international interconnection.

SUMMARY: Jersey Central Power & Light Company has filed an application for a Presidential Permit, Docket PP–72, to construct, connect, operate and maintain a number of high voltage direct current submarine cables with a power transfer capability of 1000 MW from the U.S.–Canada International Border under Lake Erie to its southern shore and from there to the Erie West substation of the General Public Utilities Corporation.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3825.

Lise Cortney Howe, Office of General Counsel, Department of Energy, Room 5E–064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2900.

SUPPLEMENTARY INFORMATION: On June 25, 1980, Jersey Central Power & Light Company (JCP&L), a subsidiary of the General Public Utilities Corporation (GPU), filed an application with the economic Regulatory Administration (ERA) to construct and maintain facilities at the borders of the United States and the Province of Ontario, Canada, for the transmission of electric energy from Ontarion Hydro (OH) to JCP&L. Specifically, JCP&L seeks authority to construct, connect, operate and maintain the United States portion of a direct current (DC) transmission line extending from the Nanticoke Generating Station in Ontario, Canada, via DC submarine cable, to the International Border in Lake Erie and from there continuing, via DC submarine cable, to the West Erie substation owned by the Pennsylvania Electric Company (PE), another subsidary of the GPU. Since both PE and JCP&L are members of the PJM Interconnection, the internal transmission facilities of this power pool will be used for delivery of the power to JCP&L. JCP&L further states in the application that based on its estimated needs and those of other GPU subsidiaries, it likely will be the sole purchaser of the 1000 megawatts of firm power to be provided by OH through the proposed facilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory Administration Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with §§ 1.8 or 1.10 of the rules of Practice and Procedure (18 CFR 1.8, 1.10).

Any such petitions and protests should be filed on or before September 3, 1980. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with ERA and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B–110, 2000 M Street, N.W., Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street, N.W., Washington, D.C.

Dated: July 14, 1980.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc 80–21794 Filed 7–18–80; 8:45 am]
BILLING CODE 6450–01–M

Powerine Oil Co.'s June 10, 1980, Application for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of issuance of order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on July 14, 1980, a Decision and Order was issued pursuant to the

provisions of 10 CFR 205.90 *et seq.* and § 211.10(b) denying Powerine Oil Company's June 10, 1980, request for permission to use multiple allocation fractions pending an ERA determination regarding the firm's May 18, 1979, Application for Market Withdrawal from Petroleum Administration for Defense District (PADD) III. The multiple allocation fraction request, if granted, would have permitted Powerine to use separate allocation fractions for the distribution of motor gasoline in its PADD III and PADD V marketing subsystems during the months of June, July and August 1980.

A copy of the Decision and Order, with proprietary information deleted, is attached.

FOR FURTHER INFORMATION REGARDING THIS MATTER, PLEASE CONTACT:

Charles R. McCrea, Economic Regulatory Administration, Office of Petroleum Operations, Room 6222, 2000 M Street, NW, Washington, DC 20461, Telephone: (202) 653–3445.

Joel M. Yudson, Office of General Counsel, Room 6A–127, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 14th day of July 1980.

Paul T. Burke,

Deputy Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Economic Regulatory Administration, Decision and Order

To: Powerine Oil Company, 12354 Lakeland Road, Santa Fe Springs, California 90670.

Subject: Powerine Oil Company's June 10, 1980, Application for Permission to use Temporary Multiple Allocation Fractions in its Petroleum Administration for Defense Districts III and V Marketing Subsystems—Case Number 80–019.

I. Introduction

On June 23, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a Decision and Order to Powerine Oil Company (Powerine). See Powerine Oil Company Case No. 80–006. That order denied Powerine's request for permission to use separate allocation fractions for the distribution of motor gasoline in its PADD III and PADD V marketing subsystems during the months of March, April and May 1980. The present application, if granted, would result in the issuance of an order which permits Powerine to use multiple allocation fractions in June, July and August 1980.

II. Legal Authority

Powerine's application is being processed in accordance with § 205.90 *et seq.* and § 211.10(b).

III. Background

Powerine is a small and independent refiner located at Santa Fe Springs, California, where, for the past twenty years, it has refined and marketed petroleum products. Powerine's refinery has a Department of Energy certified capacity of 44,100 barrels per day.

Powerine operates two marketing subsystems. The first is located in PADD V, predominantly in the States of Arizona and California. There it distributes and sells the majority of its motor gasoline production to more than 100 independent marketers and resellers, primarily for direct distribution to retail sales outlets, with the balance marketed through Powerine's own retail outlets. The primary source of motor gasoline supply in PADD V is Powerine's Santa Fe Springs refinery.

The second marketing subsystem is located in PADD III, predominantly in the State of Texas. There Powerine distributes and markets its motor gasoline to refiners and wholesale purchaser-resellers. A list of Powerine's PADD III base period customers in June, July and August is set forth in the attached appendix. The PADD III marketing operation was established on a trial basis in the fall of 1977. In order to provide a primary source of motor gasoline to support the PADD III marketing operation, Powerine established a crude oil processing arrangement with Champlin Petroleum Company (Champlin) of Fort Worth, Texas.[1] Under the arrangement, Powerine began receiving motor gasoline volumes at Champlin's Corpus Christi, Texas, refinery in October 1977. Powerine also purchased crude oil, primarily of a foreign origin, from Champlin for use as feedstock. Product derived from the processing arrangement amounted to about percent of Powerine's total base period motor gasoline supply in PADD III. The balance of motor gasoline was purchased from the Gulf Coast spot market. Approximately one year later, during November 1978, Powerine discontinued its PADD III marketing operation. It closed its Houston, Texas, office and cancelled the Champlin processing arrangement. On February 22, 1979, with the updating of the motor gasoline base period by Activation Order No. 1, (hereinafter referred to as the Activation Order),[2] Powerine was required to reestablish its PADD III marketing operations. Thus, Powerine resumed the sale of motor gasoline to its former PADD III customers even though it no longer had employees in Texas nor access to the gasoline from the Champlin refinery to fulfill its supply obligations.

IV. Applicable Regulations and Criteria

Section 211.10(b) of the DOE Allocation Regulations provides in relevant part that:

"Suppliers with two or more distribution subsystems or regions independent of one another may apply to the [DOE] National Office, in accordance with Subpart G of this chapter, for permission to use multiple allocation fractions whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program."

As the DOE[3] stated in a previous case involving an application for multiple allocation fractions:

"(S)uppliers of an allocated product are generally required to maintain a single allocation fraction for purchasers of that product. That policy is designed to ensure to the maximum extent practicable, the equitable distribution of the allocated products throughout all areas of the United States. The policy of maintaining a single allocation fraction will be outweighed only to the extent that it is truly impracticable and burdensome to do so in particular situations." See *Shell Oil Company*, 3 FEA Para. 80,557 (January 22, 1976).

In earlier decisions the DOE discussed some of the factors used in determining whether to approve requests for the use of multiple allocation fractions. In the *Shell Oil Company* case, for example, the Office of Hearings and Appeals listed the following factors:

(1) The relative location of the marketing area to be included in computing each separate allocation fraction;

(2) The source of supply for each such area;

(3) The method used in transporting the product to each area;

(4) The availability of transporting facilities and the cost of transporting product, either

(a) between such areas, or

(b) from the source of supply to one area as opposed to another;

(5) The destination of product within such an area; and

(6) The degree to which transfers or exchanges of like product with other producers have been in the past or could reasonably be arranged.

Furthermore, in Powerine's previous applications the ERA held that an applicant must also establish that it cannot improve its supply situation through the purchase of product on the open market.

V. Powerine's Arguments

Powerine requests the temporary use of multiple allocation fractions in June, July and August 1980 pending a DOE decision on its application to withdraw from marketing operations in PADD III. Powerine asserts that this is principally because of the serious distortions in those three months between the amount of motor gasoline which it has a right to receive in PADD III under the applicable DOE regulations and its motor gasoline supply obligations in PADD III. In the months of June through August 1978, Powerine supplied its customers in its PADD III marketing area with barrels of gasoline. percent of that quantity was obtained by means of its processing agreement with Champlin. Without an assured source of supply in PADD III, Powerine contends that it if has to maintain a single allocation fraction for all of its base period purchasers, nationwide, it may cause the firm to impose a lower allocation fraction on its PADD V customers than is otherwise possible. As a consequence, its PADD V customers would receive less motor gasoline.

Powerine also contends that, on the basis of the criteria set forth in *Shell Oil Company, supra*, it should be allowed to use separate allocation fractions for the months of June, July and August 1980. Powerine specifically contends that:

(1) The PADD III and PADD V marketing areas are physically separated by hundreds of miles with no convenient product transportation system uniting the two areas.

(2) The sources of supply for each area are separate. The products sold in PADD III are derived from purchases in PADD III. As mentioned previously, the Champlin processing agreement also provided a source of gasoline supplies for PADD III until November 1978. Powerine's refinery located in Santa Fe Springs, California, is the primary source of its supply in PADD V.

(3) There are no existing product pipelines with which Powerine can transfer product from its PADD V refinery to its PADD III purchasers. Powerine must utilize either oceangoing vessels, rail tank cars, or truck transports to move product from PADD V top PADD III. All of these methods are economically infeasible.

(4) The distribution of product in PADD III is entirely to refiners and large wholesale purchaser-resellers while in PADD V, Powerine's customers primarily consist of over 100 small and independent retailers, reseller-retailers and small resellers which supply independent retailers in Arizona and California.

(5) Powerine has never used exchange agreements to transfer product between PADDs III and V. While it may be logistically possible to arrange exchanges, Powerine alleges that they are impractical and inefficient.

VI. Analysis and Findings

The determination reached by ERA in the June 23 Order [4] was based on the finding that substantial quantities of surplus motor gasoline are available to Powerine in PADD III to supply its purchasers and the firm has made no showing that the costs associated with purchasing such gasoline could not be recovered. ERA also found that if Powerine chose to purchase surplus gasoline to sell to its PADD III customers, it could increase its allocation fraction for all of its customers, including those in PADD V.

The ERA has considered the arguments which Powerine raises in is present application and has concluded that the firm has presented no new factual material, but has merely incorporated the arguments and materials which it presented in the course of the previous proceeding.

Thus, the ERA has concluded that Powerine has failed to make a compelling showing that it is truly impracticable and burdensome to maintain a single, uniform allocation fraction and that to do so is inconsistent with the objectives of the Mandatory Petroleum Allocation Program. Powerine's application should therefore be denied.

VII. Order

This order is issued pursuant to the provisions of 10 CFR § 205.90 *et seq.* and § 211.10(b).

It is, therefore, ordered that:

(1) The application filed by Powerine Oil Company for permission to use multiple allocation fractions for the months of June, July and August 1980, be and hereby is denied.

(2) In accordance with the provisions of 10 CFR, Part 205, any aggrieved party may file an appeal from this decision and order with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. The provisions of 10 CFR, Part 205, Subpart H, set forth the procedures and criteria which govern the filing and determination of any such appeal.

(3) Communications, other than appeals, regarding this directive, should be referred to Charles R. McCrea, Gasoline Allocation Branch, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, N.W., Washington, D.C. 20461, telephone (202) 653-3445.

Paul T. Burke,

Deputy Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

Powerine's PADD III base period customers for June, July, and August and their entitlements for motor gasoline.

Month	Customer	Volume (barrels)
June	Hydrocarbon Trading & Transport	
	Kenco Refining	
	Mellon Energy Products Co	
	Thomas P. Reidy, Inc	
July	Thomas P. Reidy, Inc	
August	Koch Industries, Inc	

Footnotes

[1] In *Champlin Petroleum Company*, Interpretation 1976-23, issued on December 6, 1976, the Federal Energy Administration (FEA), a predecessor of DOE, determined that a refiner which processes crude oil pursuant to a processing agreement as defined in § 211.62 of the Mandatory Petroleum Allocation Regulations is not a supplier as defined in § 211.51 with respect to the refined products so produced and, therefore, incurs no base period supply obligations as to those products.

[2] On February 22, 1979, Activation Order No. 1, Standby Petroleum Product Allocation Regulations, was adopted, 44 Fed. Reg. 11202 (February 28, 1979). In that order, ERA activated certain portions of the Standby Petroleum Product Allocation Regulations in order to update the base period for motor gasoline allocation from the 1972 base period to the corresponding month of the period July 1, 1977, to June 30, 1978, and implemented the updated base period for an initial period of March, April and May 1979. Subsequently, On May 1, 1979, ERA issued an Interim Final Rule, 44 Fed. Reg. 26712 (May 4, 1979), which superseded the Activation Order. Under the Interim Rule, the updated base period for motor gasoline allocation was designated as the corresponding month of the period November 1977 through October 1978. The updated base period was permanently established by the Final Rule, 44 Fed. Reg. 42549 (July 19, 1979).

[3] On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (P.L. 95-91) and E.O. 12009 (42 Fed. Reg. 46267, September 15, 1977), the admininstration of the Emergency Petroleum Allocation Act of 1973, P.L. 93-159, was transferred to the Secretary of Energy.

[4] The June 23, 1980 decision and order is hereby incorporated into the instant proceeding by reference.

[FR Doc. 80-21799 Filed 7-18-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-021; ERA Case No. 65006-9095-22-22]

Powerplant and Industrial Fuel Use Act of 1978; Modesto Irrigation District Exemption Request; Acceptance

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of acceptance of exemption request.

SUMMARY: On May 13, 1980, Modesto Irrigation District (Modesto) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a permanent peakload powerplant exemption are published in the implementing regulations at 10 CFR Parts 501.3 and 503.41.

Modesto proposes to install an oil- and/or natural gas-fired 49,400 kilowatt combustion turbine unit and certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

FUA imposes statutory prohibitions against the use of petroleum or natural gas by new powerplants. ERA's decision in this matter will determine whether the proposed powerplant qualifies for the requested exemption.

ERA has accepted this petition pursuant to 10 CFR Parts 501.3 and 501.64. In accordance with the provisions of Sections 701(c) and (d) of FUA, and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before September 4, 1980. A request for a public hearing must be made by any interested person within this same 45-day period.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461.

Docket Number ERA–FC–80–021 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, Phone (202) 653–4055.

James W. Workman, Acting Director, Powerplants, Conversion Division, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, Phone (202) 653–3637

Douglas F. Mitchell, Office of General Counsel, 6G–087 Forrestal Bldg., Washington, D.C. 20461, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Modesto has filed a petition for a permanent peakload powerplant exemption to use petroleum/natural gas as a primary energy source.

As part of its petition, Modesto submitted a sworn statement by a duly authorized officer, Mr. M. N. Bennett, Chief Administrative Officer of Modesto as required by 10 CFR 503.41 (b)(1). In his statement, Mr. Bennett certified that the proposed oil and/or natural gas fired combustion turbine (McClure Station Unit 2) will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

Mr. Bennett also certified that the maximum design capacity of the powerplant is 49,400 kilowatts, and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 74,857,000 Kwh.

Under the requirements of 10 CFR 503.41(b)(2), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, he must obtain a certification from the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency. This certification must state that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to this petition.

Modesto also furnished the information required by 10 CFR 502.12 (Conservation measures), and 502.13 (Environmental impact analysis).

ERA retains the right to request additional relevant information from Modesto at any time during the pendency of these proceedings where circumstances or procedural requirements may so require.

The public file, containing documents on these proceedings and supporting materials, is available for inspection upon request at: ERA, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C., on July 15, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–21801 Filed 7–18–80; 8:45 am]

BILLING CODE 6450–01–M

Sun Co., Inc., Application for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of issuance of order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on July 14, 1980, a Decision and Order was issued pursuant to the provisions of 10 CFR 205.90 *et seq.* and § 211.10(b) granting Sun Company, Inc.'s (Sun), April 23, 1980, request for permission to use multiple allocation fractions. The Order granted Suntech, Inc., a wholly-owned subsidiary of Sun, permission to use an allocation fraction for the distribution of CAM2 racing gasoline which is separate from and independent of the allocation fraction used for Sun's ordinary commercial motor gasoline distribution.

A copy of the Decision and Order, with proprietary information deleted, is attached.

FOR FURTHER INFORMATION REGARDING THIS ORDER, CONTACT:

Alan T. Lockard, Economic Regulatory Administration, Office of Petroleum Operations, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461, Telephone: (202) 653–3443.

Joel M. Yudson, Office of the General Counsel, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: (202) 252–6744.

Issued in Washington, D.C. on the 14th day of July 1980.

Paul T. Burke,

Deputy Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Ecomonic Regulatory Administration; Decision and Order

To: Sun Company, Inc., 100 Matsonford Road, Radnor, Pennsylvania 19087.

Subject: Sun Company, Inc., application to use multiple allocation fractions for the distribution of racing and commercial gasolines—case Number 80–016.

I. Introduction

On April 23, 1980, Sun Company, Inc. (Sun), filed an application with the Office of Petroleum Operations of the Economic Regulatory Administration for permission to use multiple allocation fractions pursuant to 10 CFR § 211.10(b). The application, if granted, would permit Suntech, Inc. (Suntech), a wholly-owned subsidiary of Sun, to use a separate allocation fraction for its distribution of CAM2 racing gasoline which is separate from and independent of the allocation fraction which is used for Sun's ordinary commercial motor gasoline distribution.

II. Legal Authority

Sun's application is being processed in accordance with 10 CFR § 205.90 *et seq.* and § 211.10(b).

III. Background

Sun is a major integrated oil company engaged in most aspects of the petroleum industry. Suntech is the research and development company of Sun and the firm's sole producer, supplier, and marketer of specialty racing gasoline. All CAM2 racing gasoline is manufactured and supplied from Suntech's special fuel blending facilities in Marcus Hook, Pennsylvania. CAM2 racing fuel is shipped in 5-gallon drums, truck transports, or railroad tankcars directly from Marcus Hook to 23 racing gasoline distributors located throughout the U.S. Although some of these distributors are wholesalers of other Sun gasolines, the majority are small, independent businessmen involved in supplying parts and equipment to racing participants. Suntech distributes approximately — gallons of racing gasoline annually, which is — percent of the amount of commercial gasoline supplied by Sun.

Suntech's CAM2 racing fuel distribution system is asserted to be separate from an independent of the truck, pipeline, and barge systems used for Sun's commercial gasoline. According to Sun, CAM2 racing gasoline is not shipped via existing product pipelines because it cannot be commingled with commercial gasoline. The firm also contends that exchanges with other suppliers are not possible because only a small number of firms compete in the racing gasoline market and products of equal quality are not available.

Sun maintains that the application of a single uniform allocation fraction for its CAM2 racing gasoline and commercial gasoline is impractical and inconsistent with the objectives of the Mandatory Petroleum Allocation Program because the supply of racing fuel is thereby reduced. Specifically, Sun asserts that it has the ability to supply all of its racing fuel purchasers with their base period volumes each month; however, when it allocates its supply of commercial gasoline by applying a firm-wide allocation fraction of less than one (1.0), Suntech is prevented from distributing its supplies of CAM2 racing gasoline at a fraction equal to or greater than one.

IV. Analysis and Findings

On May 13, 1980, the ERA issued a notice of Sun's request to use multiple allocation fractions (45 Fed. Reg. 31462, May 13, 1980). The notice invited written comments from interested persons; however, none were submitted.

Sun's request has been analyzed according to, but not limited by, the standards specified in 10 CFR § 211.10 and *Shell Oil Company*, 3 FEA Paragraph 80,557 (January 22, 1976).

Section 211.10(b) states in relevant part:

Suppliers with two or more distribution subsystems or regions independent of one another may apply to the [DOE] National Office, in accordance with Subpart G of this chapter, for permission to use multiple allocation fractions whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program.

In the *Shell Oil Company* case, the Federal Energy Administration [1] (FEA) stated:

Suppliers of an allocated product are generally required to maintain a single allocation fraction for purchasers of that product. That policy is designed to ensure to the maximum extent practicable, the equitable distribution of the allocated products throughout all areas of the United States. The policy of maintaining a single allocation fraction will be outweighed only to the extent that it is truly impractical and burdensome to do so in particular situations.

In the *Shell* decision, the FEA listed some of the factors used in determining whether to approve requests for the use of multiple allocation fractions. These factors are:

(1) The relative location of the marketing area to be included in computing each separate allocation fraction;

(2) The source of supply for each such area;

(3) The method used in transporting the product to each area;

(4) The availability of transporting facilities and the cost of transporting product, either:

(a) between such area, or

(b) from the source of supply to one area as opposed to another;

(5) The destination of product within such an area; and

(6) The degree to which transfers or exchanges of like product with other producers has been in the past or could reasonably be arranged.

ERA has considered Sun's application in view of the standards referred to above and has concluded that the firm should be permitted to use a separate allocation fraction for the distribution of CAM2 racing gasoline. The information which was provided by Sun supports the conclusion that the firm has a separate and independent subsystem for the distribution of racing fuel. CAM2 is a specialized product which is manufactured in relatively small volumes compared to the output of Sun's commercial motor gasoline. It is not used by the general driving public. Therefore, the availability of the fuel is not related to Sun's ability to supply commercial motor gasoline. Thus, the maintenance of a separate allocation fraction for the CAM2 racing fuel would cause no significant impact on commercial gasoline supply. On the other hand, requiring Sun to maintain a uniform allocation fraction would be burdensome because it could constrain otherwise available volumes of CAM2 racing fuel. In our view, no purpose would be served by denying Sun's request and, thus, preventing Suntech from increasing its available supplies of CAM2 to its racing gasoline purchasers.

Accordingly, we have determined that a sufficient basis exists for granting relief and that it would be impractical and burdensome for Sun to use a single allocation fraction for both its racing and commercial gasolines.

V. Order

This order is issued pursuant to the provisions of 10 CFR § 205.90 *et seq.* and § 211.10(b).

It is, therefore, ordered that:

(1) The application filed by Sun Company, Inc., on April 23, 1980, for permission to use multiple allocation fractions is granted as set forth below.

(2) Sun is authorized to use one allocation fraction for the distribution of CAM2 racing gasoline and a separate fraction for commercial motor gasoline.

(3) In allocating its supply each month, Sun may not apply an allocation fraction for CAM2 racing gasoline which is *less than* the allocation fraction it uses for commercial motor gasoline. If, in any month, Sun shall use multiple allocation fractions for the distribution of commercial motor gasoline as provided in 10 CFR § 211.14 or if permitted or required by order of the DOE, the allocation fraction used for CAM2 racing gasoline shall not be *less than* the greatest allocation fraction applied to its distribution of commercial gasoline.

(4) The relief approved above is based on the presumed validity of the statements, allegations, and documentary materials submitted by Sun in connection with its application. It may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect or on the basis of general regulatory provisions which DOE may adopt.

(5) In accordance the provisions of 10 CFR, Part 205, any aggrieved party may file an appeal from this decision and order with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. The provisions of 10 CFR, Part 205, Subpart H, set forth the procedures and criteria which govern the filing and determination of any such appeal.

(6) Communications, other than appeals, regarding this directive should be referred to Alan T. Lockard, Acting Director, Allocated Products Division, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461 telephone number (202)653–3443.

Paul T. Burke,

Deputy Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–21802 Filed 7–18–80; 8:45 am]

BILLING CODE 6450–01–M

[1] On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (Pub. L. 95–91) and E.O. 12009 (42 Fed. Reg. 46267, September 15, 1977), the administration of the Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, was transferred to the Secretary of Energy.

Ven Fuel, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Ven Fuel, Incorporated, 2121 Ponce DeLeon Avenue, Coral Gables, Florida 33134. This Proposed Remedial Order charges Ven Fuel, Incorporated with pricing violations in the amount of $3,701,123.41, connected with certain sales of No. 6 fuel oil made from Ven Fuel to Jacksonville Electric Authority during the period October 1973 through October 1974.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. James C. Easterday, District Manager of Enforcement, Southeast District, 1655 Peachtree Street, N.E., Atlanta, Ga. 30367, Telephone (404) 881–2396. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193

Issued in Atlanta, Ga., on the 7th day of July 1980.

James C. Easterday,

District Manager.

Concurrence

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80–21795 Filed 7–18–80; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High-Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Public Law 95–621), signed into law on November 9, 1978, mandated a

new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility does not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA of 1978, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and a high cost gas incremental pricing threshold which are to be effective August 1, 1980. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Levine or Leroy Brown, Jr., Energy Information Administration, Federal Building, 12th & Pa. Ave., N.W., Rm 4121, Washington, D.C. 20461 (202) 633–9710.

Section I. Alternative Fuel Price Ceilings

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State:	Dollars per million Btu's
Alabama	2.38
Arizona	2.29
Arkansas	2.56
California	2.74
Colorado	2.27
Connecticut	2.88
Delaware	2.85
Florida	2.25
Georgia	2.34
Idaho	2.90
Illinois	2.31
Indiana	2.35
Iowa	2.17
Kansas	1.91
Kentucky	3.10
Louisiana	1.82
Maine	2.82
Maryland	2.63
Massachusetts	2.76
Michigan	2.87
Minnesota	2.41
Mississippi	2.41
Missouri	1.79
Montana	2.27
Nebraska	2.19
Nevada	2.85
New Hampshire	3.05
New Jersey	2.65
New Mexico	2.46
New York	2.62
North Carolina	2.87
North Dakota	2.69
Ohio	2.17
Oklahoma	2.20
Oregon	3.35
Pennsylvania	2.52
Rhode Island	3.42
South Carolina	2.62
South Dakota	3.13
Tennessee	2.61
Texas	2.21
Utah	2.27
Vermont	3.09
Virginia	2.64
Washington	2.86
West Virginia	2.65
Wisconsin	2.52
Wyoming	2.16

Section II. Incremental Pricing Threshold for High-Cost Natural Gas

The EIA has determined that the volume-weighted price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during May 1980 was $32.94 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective August 1, 1980, is $7.38 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 28, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 51, issued in the same docket on the same date, established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings until November 1, 1980.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1% sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of March 1980, April 1980 and May 1980.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Weighted-Average Price.* The prices which will become effective August 1, 1980, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, March 1980, April 1980 and May 1980. Reported prices for sales in March 1980 were adjusted by the percent change in the nationwide volume-weighted average price from March to May 1980. Prices for April 1980 were similarly adjusted by the percent change in the nationwide volume-weighted average price from April to May 1980. The volume-weighted 3 month average of the adjusted March 1980 and April 1980, and the reported May 1980 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3 month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3 month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted-average price for the State.

(3) *Calculation of Ceiling Prices.* The lowest selling price within the State was determined for each month of the 3 month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B.(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3 month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted-average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3 month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The appropriate lag adjustment factor (as discussed in Section III.B.(4)) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or Local) and the military are excluded.

compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted-average price for No. 6 high sulfur residual fuel oil for the nine trading days ending July 11, 1980, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of May 1980. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling base for each State in a given region as calculated in Section III.B.(3).

C. Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
Region B: Delaware, Maryland, New Jersey, New York, Pennsylvania.
Region C: Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia.
Region D: Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, Wisconsin.
Region E: Iowa, Kansas, Missouri, Minnesota, Nebraska, North Dakota, South Dakota.
Region F: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Region G: Colorado, Idaho, Montana, Utah, Wyoming.
Region H: Arizona, California, Nevada, Oregon, Washington.

Issued in Washington, D.C. on July 17, 1980.

Albert H. Linden, Jr.,

Acting Administrator, Energy Information Administration.

[FR Doc. 80-21843 Filed 7-17-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of June 23 through 27, 1980

During the week of June 23 through June 27, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

July 15, 1980.

Proposed Decision and Order

Mauritz and Carroll, El Campo, TX., BEE-0737, gasohol

Mauritz and Carroll filed an Application for Exception from the provisions of 10 C.F.R. Part 211. The exception request, if granted, would permit Mauritz to purchase an increased allocation of unleaded motor gasoline pursuant to its base period allocation for the production of gasohol. On June 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Priest Explorations, Inc., Oklahoma City, Okla., BXE-0817, crude oil

Priest Explorations, Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Barnes Well 2A for the benefit of the working interest owners at market price levels. On June 24, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Sabre Refining, Inc., Bakersfield, Calif., DEX-0044, crude oil

In accordance with Decisions and Orders issued to Sabre Refining, Inc. which granted the firm exception relief from the provisions of 10 C.F.R. 211.67 (the Entitlements Program) the firm submitted actual financial data for its 1977 fiscal year ended October 31, 1977. On June 24, 1980, after reviewing the level of exception relief granted to Sabre under the applicable standards, the DOE issued a Proposed Decision and Order which determined that Sabre should purchase $983,847 of entitlements.

SSM Oil & Gas Producers, Monroe, La., BEE-1137, crude oil

SSM Oil & Gas Producers filed an Application for Exception from the provisions of 10 C.F.R. 212.131 which, if granted, would permit the firm to certify the crude oil produced during October 1979 from the Myrtle Hubbard lease as crude oil produced from a stripper well property. On June 24, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that exception relief should be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Company Name, Case Numbered, and Location

Edgewater Standard SVC., BEX-0061, Orlando, FL.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Numbered, and Location

J. C. Corp., DEE-6186, Bel Air, Md.

Metro Oil Co., Inc., DEE–3257, Oklahoma City, OK.
Mintzer Petroleum Corp., BEE–0840, New York, NY.
Thornton Oil Corp., DEE–2140, Washington, DC.
10–10 Truck Stop, DEE–5304, Rialto, CA.

[FR Doc. 80–21800 Filed 7–18–80, 8:45 am]
BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed Week of May 12 through 16, 1980

Notice is hereby given that during the week of May 12 through May 16, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before August 10, 1980, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before August 20, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

July 15, 1980.

Alameda Chevron, San Jose, Calif., BRO–1190, motor gasoline

On May 15, 1980, Alameda Chevron 955 Alameda, San Jose, CA 95126 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to October 30, 1979, the firm committed pricing violations relating to the sales of motor gasoline in the State of California.

According to the PRO the Alameda Chevron violation resulted in $1,869.31 of overcharges.

Aetaluma Standard Service, Petaluma, Calif., BRO–1195, motor gasoline

On May 15, 1980, Aetaluma Standard Service, 1440 E. Washington Street, Petaluma, CA 94952 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 30, 1980, the firm committed pricing violations relating to the sales of motor gasoline for the State of California.

According to the PRO the Aetaluma Standard Service violation resulted in $3,987.27 of overcharges.

Ben's Exxon Service, Richmond, Calif., BRO–1197, motor gasoline

On May 15, 1980, Ben's Exxon Service 925 Cutting Blvd., Richmond, Ca. 94804 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 30, 1980, the firm committed pricing violations relating to the sales of motor gasoline in the State of California.

According to the PRO the Ben's Exxon Service violation resulted in $4,533.73 of overcharges.

Berryessa Chevron, San Jose, Calif., BRO–1209, motor gasoline

On May 15, 1980, Berryessa Chevron, 1715 Berryessa Rd., San Jose, Ca. filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to October 30, 1979, the firm committed pricing violations relating to the sales of motor gasoline in the State of California.

According to the PRO the Berryessa Chevron violation resulted in $3,865.00 of overcharges.

Bill Dobko, Redwood City, Calif., BRO–1218, motor gasoline

On May 15, 1980, Bill Dobko Chevron, 3139 Jefferson Avenue, Redwood City, California filed a Notice of Objection to a Proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the San Fransico District found that during the period August 1, 1979 to November 14, 1979, Dobko charged prices for motor gasoline in excess of the maximum lawful selling price in violation of the Mandatory Petroleum Price Regulations.

According to the PRO the Dobko violation resulted in $298.90 in overcharges.

Bill Pendergast & Son, Chevron Service, Valle Jo, Calif., BRO–1216, motor gasoline

On May 15, 1980, Bill Pendergast & Son Chevron Service, 4375 Soroha Blvd., Valle Jo, Ca. 94590 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during April 1, 1979 to January 30, 1980, the firm committed pricing violations relating to the sales of motor gasoline in the State of California.

According to the PRO the Bill Pendergast & Son Chevron Service violation resulted in $13,798.65 of overcharges.

Bill Wren's Shell, San Francisco, Calif., BRO–1198, motor gasoline

On May 15, 1980, Bill Wren's Shell, 1200, 19th Avenue, San Francisco, Ca. 94107 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 11, 1980, the firm committed pricing violations relating to the sales of motor gasoline for the State of California.

According to the PRO the Bill Wren's Shell violation resulted in $6,518.63 of overcharges.

Bob Hutchison, Inc., Oakland, Calif., BRO–1206, motor gasoline

On May 15, 1980, Bob Hutchison, Inc., 2200 Telegraph Ave., Oakland, California 94612 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to November 30, 1979, the firm committed pricing violations relating to the sale of motor gasoline in the state of California.

According to the PRO the Bob Hutchison, Inc. violation resulted in $2,439.59 of overcharges.

Chuck's Auto Service, San Jose, Calif., BRO–1208, motor gasoline

On May 15, 1980, Chuck's Auto Service, 2101 N. First Street, San Jose, California 95131 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to October 1979, the firm committed pricing violations relating to the sales of motor gasoline in the state of California.

According to the PRO the Chuck's Auto Service violation resulted in $2,421.70 of overcharges.

Cutting Shell Service, Richmond, Calif., BRO–1217, motor gasoline

On May 15, 1980, Cutting Shell Service, 1000 Cutting Blvd., Richmond, California 94804 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 30, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the state of California.

According to the PRO the Cutting Shell Service violation resulted in $7,189.62 of overcharges.

Dhority's Union 76, San Francisco, Calif., BRO–1212, motor gasoline

On May 15, 1980, Dhority's Union 76, 1600 Mission Street, San Francisco, CA. 95103 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to February 5, 1980, the

firm committed pricing violations relating to the sale of motor gasoline in the state of California.

According to the PRO the Dhority's Union 76 violation resulted in $2,919.46 of overcharges.

Ed Gularte Chevron, Saunas, Calif., BRO–1193, motor gasoline

On May 15, 1980, Ed Gularte Chevron, 131 N. Main Street, Saunas, CA. 93901 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 30, 1980, the firm committed pricing violations relating to the sale of gasoline in the state of California.

According to the PRO the Ed Gularte Chevron, violation resulted in $9,309.70 of overcharges.

Gallagher's Shell Service, San Bruins, Calif., BRO–1201, motor gasoline

On May 15, 1980, Gallagher's Shell Service, 111 El Camine R, San Bruins, CA 94066 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to November 11, 1979, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Gallagher's Shell Service violation resulted in $1,837.15 of overcharges.

Gateway Texaco, Mountain View, Calif., BRO–1188, motor gasoline

On May 15, 1980, Gateway Texaco, 1036 N. Rengstorfs Avenue, Mountain View, CA 94043 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to November 4, 1979, Gateway Texaco sold motor gasoline at prices in excess of the maximum legal selling price under the DOE regulations.

According to the PRO the Gateway Texaco violation resulted in $1,265.45 of overcharges.

Joe Berube Services, San Pablo, Calif., BRO–1203, motor gasoline

On May 15, 1980, Joe Berube Services, 13052 San Pablo Avenue, San Pablo, CA 94806 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 11, 1980, the firm committed pricing violation relating to the sales of motor gasoline in the State of California.

According to the PRO the Joe Berube Services violation resulted in $8,282.94 of overcharges.

Ken's Chevron Service, Half Moon Bay, Calif., BRO–1215, motor gasoline

On May 15, 1980, Ken's Chevron Service, 375 Cabrillo Highway, Half Moon Bay, CA 94019 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to November 8, 1979, the firm committed pricing violations relating to the sales of motor gasoline in the State of California.

According to the PRO the Ken's Chevron Service violation resulted in $14,398.84 of overcharges.

Lazar Super Shell, San Francisco, Calif., BRO–1200, motor gasoline

On May 15, 1980, Lazar Super Shell, 377 6th Street, San Francisco, CA 94103 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 11, 1980, the firm committed pricing violations relating to the sales of motor gasoline in the State of California.

According to the PRO the Lazar Super Shell violation resulted in $5,616.31 of overcharges.

Mike's Shell Service, San Francisco, Calif., BRO–1191, motor gasoline

On May 15, 1980, Mike's Shell Service, 1201 Harrison Street, San Francisco, Ca. 94103 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 11, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Mike's Shell Service violation resulted in $1,590.28 of overcharges.

Millabrae Shell, Millbrae, Calif., BRO–1213, motor gasoline

On May 15, 1980, Millabrae Shell, 500 Broadway Street, Millbrae, Ca. 94030 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to November 13, 1979, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Millabrae Shell violation resulted in $3,906.47 of overcharges.

Miraloma Shell, San Francisco, Calif., BRO–1211, motor gasoline

On May 15, 1980, Miraloma Shell, 701 Portola Ave., San Francisco, Ca. 94127 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 30, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Miraloma Shell violation resulted in $4,159.71 of overcharges.

Peter F. Marenco, Exxon Service, Valleto, Calif., BRO–1204, motor gasoline

On May 15, 1980, Peter F. Marenco Exxon Service, 1700 Sonoma Blvd., Valleto, Ca. 94590 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on August 29, 1980.

In the PRO the Western District found that during August 1, 1979 to February 28, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Peter F. Marenco Exxon Service violation resulted in $4,387.42 of overcharges.

Ray's Civic Center, Mobil, San Jose, Calif., BRO–1207, motor gasoline

On May 15, 1980, Ray's Civic Center Mobil, 1271 No. First Street, San Jose, Ca. 95112 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to October 29, 1979, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Ray's Civic Center Mobil violation resulted in $5,041.68 of overcharges.

Regalia's Chevron, Pinole, Calif., BRO–1202, motor gasoline

On May 15, 1980, Regalia's Chevron, 1201 Tara Hills Drive, Pinole, Ca. 94564 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 11, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Regalia's Chevron violation resulted in $8,885.26 of overcharges.

Shockley's Exxon Service, Delano, Calif., BRO–1187, motor gasoline

On May 13, 1980, Shockley's Exxon Service, 1210 Rounds St., Delano, Ca. 93215 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on January 30, 1980.

In the PRO the Western District found that during August 1, 1979 to October 16, 1979, Shockley's Exxon Service was in violation of the retail motor gasoline price regulations.

According to the PRO the Shockley violation resulted in $6,638.73 of overcharges.

Steve Horner Chevron Service, Oakland, Calif., BRO–1214, motor gasoline

On May 15, 1980, Steve Horner Chevron Service, 3500 Lakeshore Avenue, Oakland, Ca. 94610 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to October 19, 1979, the firm committed pricing violations relating to the sales of motor gasoline in the State of California.

According to the PRO the Steve Horner Chevron Service violation resulted in $5,161.54 of overcharges.

Ted's Arco, Mountain View, Calif., BRO–1186, motor gasoline

On May 13, 1980, Ted's Arco, 2110 Old Middlefield, Mountain View, Ca. 94043 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on January 8, 1980.

In the PRO the Western District found that during August 1, 1979 to October 27, 1979, overcharged its customers in violation of 10 C.F.R. Part 212.

According to the PRO the violation by Ted's Arco resulted in $535.55 of overcharges.

Ted's Arco Service, San Francisco, Calif., BRO–1194, motor gasoline

On May 15, 1980, Ted's Arco Service, 2095 19th Avenue, San Francisco, Ca. 94116 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 11, 1980, the firm committed pricing violations relating to the sales of motor gasoline in the State of California.

According to the PRO the Ted's Arco Service violation resulted in $2,168.16 of overcharges.

Vale Vista Chevron Service, Vallejo, Calif., BRO–1205, motor gasoline

On May 15, 1980, Vale Vista Chevron Service, 3288 Sonoma Blvd., Vallejo, Ca. 94590 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 30, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Vale Vista Chevron Service violation resulted in $4,929.50 of overcharges.

Wallace Arco Service, San Francisco, Calif., BRO–1199, motor gasoline

On May 15, 1980, Wallace Arco Service, 5898 Mission Street, San Francisco, Ca. 94112 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 11, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Wallace Arco Service violation resulted in $1,778.14 of overcharges.

Walt's Shell Service, San Jose, Calif., BRO–1210, motor gasoline

On May 15, 1980, Walt's Shell Service, 16601 Almaden Expressway, San Jose, Ca. 95120 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to November 14, 1979, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Walt's Shell Service violation resulted in $7,121.60 of overcharges.

Weber's Chevron, Aptos, Calif., BRO–1189, motor gasoline

On May 15, 1980, Weber's Chevron Service, 7719 Soquel Drive, Aptos, Ca. 95003 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to November 14, 1979, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Weber's Chevron Service violation resulted in $11,776.96 of overcharges.

Westlake Union Service, Dale City, Calif., BRO–1196, motor gasoline

On May 15, 1980, Westlake Union Service, 101 South Mayfair Avenue, Dale City, Ca. 94105 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 31, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the Westlake Union Service violation resulted in $1,618.29 of overcharges.

10th St. Chevron, Gilroy, Calif., BRO–1192, motor gasoline

On May 15, 1980, 10th St. Chevron, 7000 Monterey, Gilroy, Ca. 95020 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980.

In the PRO the Western District found that during August 1, 1979 to January 30, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the State of California.

According to the PRO the 10th Street Chevron violation resulted in $10,596.59 of overcharges.

[FR Doc. 80–21796 Filed 7–18–80; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed May 19 through 30, 1980

Notice is hereby given that during the period of May 19 through May 30, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before August 10, 1980, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 Fed. Reg. 7926, February 7, 1979). On or before August 20, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

July 16, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Remedial orders

Edward Ahlman d.b.a., Chrikel's Grove, Kingston, New Hampshire, BRO–1224, Motor Gasoline

On May 28, 1980, Edward Ahlman d/b/a/ Chrikel's Grove, Mainstreet, Kingston, New Hampshire, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on April 18, 1980. In the PRO the Northeast District found that during the period August 8, 1979 to November 20, 1979, the firm charged more than the maximum lawful selling price for one or more grades of motor gasoline in violation of 10 CFR § 212.43 and failed to properly post the maximum lawful selling price or a certification that its selling price for gasoline was equal to or less than the maximum allowed in violation of 10 CFR § 212.126. According to the PRO the Chrikel's Grove violation resulted in $274.04 of overcharges.

Brandtville Service Station, Bloomington, Illinois, BRO–1225, Motor Gasoline

On May 28, 1980, Brandtville Service Station, P.O. Box 97, Bloomington, Illinois filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on February 26, 1980. In the PRO the Central District found that during the period October 1, 1979 to December 31, 1979, Brandtville sold motor gasoline at prices in excess of the maximum lawful selling price set forth in the Mandatory Petroleum Price Regulations. According to the PRO the Brandtville violation resulted in $4,597.86 in overcharges.

Circle Service, San Bruno, Calif., BRO–1223, motor gasoline

On May 28, 1980, Circle Service, 2901 Sneath Ave., San Bruno, California 94066, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on April 29, 1980. In the PRO the Western District found that during August 1, 1979 to November 13, 1979, the firm

committed pricing violations relating to the sale of motor gasoline in the State of California. According to the PRO the Circle Service violation resulted in $2,505.60 of overcharges.

Grapevine Texaco, Lebec, Calif., BRO–1221, motor gasoline

On May 28, 1980, Grapevine Texaco, I–5 & Grapevine, Lebec, California 93243, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on May 14, 1980. In the PRO the Western District found that during August 1, 1979 through January 29, 1980, the firm committed pricing violations relating to the sale of motor gasoline in the State of California. According to the PRO the Grapevine Texaco violation resulted in $21,389.59 of overcharges.

Starr Union Service, Tehachapi, Calif., BRO–1222, motor gasoline

On May 28, 1980, Staff Union Service, 106 E. Tehachapi Blvd., Tehachapi, California 93961, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on May 14, 1980. In the PRO the Western District found that during August 1, 1979 to November 20, 1979, the firm committed pricing violations relating to the sale of motor gasoline in the State of California. According to the PRO the Starr Union Service violation resulted in $6,773.51 of overcharges.

[FR Doc. 80–21797 Filed 7–18–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1544–7; OPP–180379B]

California Department of Food and Agriculture; Amendment to Specific Exemption To Use Fenvalerate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA granted an amendment to a specific exemption issued to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") under the Federal Insecticide, Fungicide, and Rodenticide Act, to use fenvalerate (Pydrin 2.4 EC) on pears to control pear psylla. The amended specific exemption permitted an additional application of Pydrin 2.4 EC, changed the acceptable residue level, changed the date of expiration, and recommended buffer zones.

DATE: The amended specific exemption expired on May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Rm. E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 21, 1979 (44 FR 66986), a notice was published which announced the granting by EPA of a specific exemption to the Applicant to use a maximum of 14,800 pounds of the active ingredient (a.i.) fenvalerate on a maximum of 37,000 acres of pears. Two applications were permitted during the post-harvest to the pre-bloom stages of pear tree development.

Since then, the Applicant requested permission to make an additional application of Pydrin as a first cover spray at a rate of 0.1–0.2 pound a.i. per acre. Amitraz (BAAM) is conditionally registered as a cover spray on pears to control pear psylla. However, the Applicant stated that California regulations do not provide for State registration of a product that does not have a complete data package. Therefore, BAAM could not be used as the first cover spray for the 1980 season. According to the Applicant, lack of a usable cover spray would cause economic hardship to the growers.

EPA had previously granted a temporary tolerance for residues of fenvalerate in or on pears at 1 part per million. That approved use allowed up to four applications of Pydrin with as many as three applications between bloom and harvest. The requested amendment was for one post-bloom application. This use should not exceed the level that has been judged adequate to protect the public health.

Since the original request was granted, EPA has reevaluated the use of fenvalerate with respect to fish-bearing waters. The amendment reflected this change.

After reviewing the application and other available information, EPA determined that the requested amendment would not result in significant environmental risks. Accordingly, EPA amended the specific exemption for the use of Pydrin on pears to expire on May 31, 1980 and by substituting the following for items 2 and 12 as found on p. 66987 of the **Federal Register** of November 21, 1979:

2. A maximum of two applications may be made during the post-harvest to the pre-bloom stages of pear tree development. A third application may be made at the rate of 0.1–0.2 pound a.i. per acre as a first cover spray;

12. Pears with residue levels of fenvalerate that do not exceed 1 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, was advised of this action.

The amendment was made contingent on the provision that no pesticide applications would be made when wind speeds exceeded 10 miles per hour and that the following buffer zones would be observed:

Application height/ method	0.05	0.1	0.2	0.4
35 ft./aerial and mist blower:				
Freshwater (ft)	2000	3300	5200	5200
Saltwater	(*)	(*)	(*)	(*)

*Marine organism toxicity is low.

All other terms and conditions of the specific exemption granted on September 28, 1979, remained in effect.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–21772 Filed 7–18–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1544–4; OPP–180466]

Connecticut Department of Environmental Protection; Issuance of Specific Exemption To Use Fenvalerate To Control Colorado Potato Beetle on Potatoes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Connecticut Department of Environmental Protection (hereafter referred to as the "Applicant") to use fenvalerate (Pydrin) for the control of the Colorado potato beetle on 2,000 acres of potatoes in Hartford and Tolland Counties in Connecticut. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS–767), Rm. E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: The potato beetle is perhaps the best known beetle in the United States. Both the larvae and the adults feed on leaves of potato plants. This feeding may result in defoliation of the vines which prevents development of tubers or greatly reduces yield. Although Guthion, Imidan, methoxychlor, Monitor, parathion, Furadan, and Thiodan are registered for use on potatoes to control this pest, the Applicant claims that these pesticides are unsatisfactory for Colorado potato beetle control due to

pesticidal resistance. Temik is registered for an at-planting use and will control beetles only at planting and their first brood. In 1978 Vydate was registered for control of the beetle on potatoes; however, Vydate is effective against the larvae only, not the adult, and it is not so effective as permethrin. The Applicant estimates a loss of between $450,000 and $700,000 due to the Colorado potato beetle.

The Applicant proposed to use fenvalerate, manufactured under the trade name Pydrin, at a rate of 0.1 to 0.2 pound active ingredient (a.i.) per acre per application, using ground equipment, on 2,000 acres of potatoes in Hartford and Tolland Counties. State-certified private or commercial applicators or persons under their direct supervision will make a maximum of eight applications at seven-day intervals.

EPA has determined that residues of fenvalerate in or on potatoes and in milk or meat would not be expected to exceed 0.02 part per million (ppm) as a result of the proposed use. This residue level has been judged to be adequate to protect the public health. Since fenvalerate is highly toxic to bees and aquatic vertebrates and invertebrates, appropriate restrictions have been imposed. This use of fenvalerate is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Pydrin, manufactured by Shell Chemical Company, may be applied;

2. Pydrin may be applied at a rate of 0.1 to 0.2 pound a.i. per acre;

3. A maximum of eight applications of fenvalerate may be made with a pre-harvest interval of seven days;

4. A maximum of 2,000 acres in Connecticut may be treated;

5. Applications will be made with ground equipment;

6. Spray mixture volumes of 20–100 gallons of water will be applied by ground equipment;

7. Applications will be made by State-certified private or commercial applicators or persons under the direct supervision of a State-certified applicator;

8. Pydrin may be applied when there is a field average of:

a. 5 larval Colorado potato beetles per plant,

b. 2 overwintering Colorado potato beetle adults per plant, or

c. 5 first-generation Colorado potato beetle adults per plant.

9. Fenvalerate is toxic to fish, birds, and other wildlife. It must be kept out of any body of water. It may not be applied where runoff is likely to occur. It may not be applied when weather conditions favor drift from treated areas. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

10. Fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Buffer zone (feet), application height/method	Fenvalerate (application rate lbs/acre)			
	(.05)	(.1)	(.2)	(.4)
2 ft/ground spray:				
Freshwater	113	191	310	477
Saltwater	(1)			
8 ft/aerial spray:[2]				
Freshwater	450	764	1240	1907
Saltwater				
15 ft/aerial spray:[3]				
Freshwater	844	1433	2324	3576
Saltwater				
35 ft/aerial spray:[4]				
Freshwater	1969	3344	5200	5200
Saltwater				

NOTE.—Mist blowers shall be treated as aerial spray-35ft.

[1] Marine organism toxicity is low.
[2] For spraying low crops, such as celery or lettuce.
[3] For spraying taller crops, such as maturing corn.
[4] For spraying trees of even height, as in orchards.

It is recommended that pesticide applications be made where wind speeds are between 2 and 5 miles per hour. No pesticide applications are to be made when wind speeds exceed 10 miles per hour. Applications closer than those allowed in the above chart may result in fish and/or aquatic invertebrate kills.

11. Fenvalerate is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which economically significant numbers of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

12. Potatoes treated according to the above provisions will not have residues of fenvalerate in excess of 0.02 ppm. Residues of fenvalerate in meat and milk should not exceed 0.02 ppm. Potatoes with residues of fenvalerate which do not exceed 0.02 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

13. Root crops other than potatoes may not be planted for 12 months after the last application. No other crop may be planted for 60 days after the last application;

14. The EPA will be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with this exemption; and

15. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by February 15, 1981.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-21775 Filed 7-18-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1544-3; OPP-180464]

Delaware, Massachusetts, New Hampshire, New Jersey, Pennsylvania, and Virginia; Issuance of Specific Exemptions To Use Fenvalerate To Control Colorado Potato Beetle on Potatoes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the Delaware, New Hampshire, and Pennsylvania Departments of Agriculture, the Massachusetts Department of Food and Agriculture, the New Jersey Department of Environmental Protection, and the Virginia Department of Agriculture and Consumer Service (hereafter referred to as the "Applicants" collectively or by individual State) to use fenvalerate (Pydrin) for control of the Colorado potato beetle on potatoes. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: All the specific exemptions expire on September 15, 1980 except Virginia's which expires on October 15, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS-767), Rm: E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202/426-0223.

SUPPLEMENTARY INFORMATION: The potato beetle is perhaps the best known beetle in the United States. Both the larvae and the adults feed on leaves of potato plants. This feeding may result in defoliation of the vines which prevents development of tubers or greatly reduces yield. Although Guthion, Imidan, methoxychlor, Monitor,

parathion, Furadan, and Thiodan are registered for use on potatoes to control this pest, the Applicants claim that these pesticides are unsatisfactory for Colorado potato beetle control due to pesticidal resistance. Temik is registered for an at-planting use and will control beetles only at planting and their first brood. In 1978 Vydate was registered for control of the beetle on potatoes; however, Vydate is effective against the larvae only, not the adult, and it is not so effective as permethrin. Data indicate that fenvalerate is more efficacious against the Colorado potato beetle than permethrin. The Applicants had also requested use of permethrin for this use but EPA is awaiting the results of scientific review of permethrin before considering those requests. Since the use of Pydrin has been allowed, further substantiation would be required for use of permethrin. The Applicants estimate losses of the following amounts on the acreage listed below due to the Colorado potato beetle if they are restricted to the registered pesticides:

State	Acreage	Total loss
Delaware	3,000	$579,000
Massachusetts	3,200	729,600
New Hampshire	575	276,598
New Jersey	8,100	1,725,300
Pennsylvania	15,000	3,990,000
Virginia	25,000	4,618,000

The Applicants proposed to use fenvalerate, manufactured under the trade name Pydrin, at a rate of 0.1 to 0.2 pound active ingredient (a.i.) per acre per application, using both ground and air equipment, observing a 7-day pre-harvest interval. State-certified private or commercial applicators or persons under their direct supervision will make a maximum of six applications.

EPA has determined that residues of fenvalerate in or on potatoes, milk, and meat would not be expected to exceed 0.02 part per million (ppm) as a result of the proposed use. This residue level has been judged to be adequate to protect the public health. Since fenvalerate is highly toxic to bees and aquatic vertebrates and invertebrates, appropriate restrictions have been imposed. This use of fenvalerate is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for exemptions have been met. Accordingly, Delaware, Masachusetts, New Hampshire, New Jersey, and Pennsylvania have been granted specific exemptions to use the pesticide noted above until September 15, 1980, and Virginia until October 15, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The product Pydrin, manufactured by Shell Chemical Company, may be applied;

2. Pydrin may be applied at a rate of 0.1 to 0.2 pound a.i. per acre;

3. A maximum of six applications of fenvalerate may be made with a pre-harvest interval of seven days;

4. A maximum of 3,000 acres in Delaware, 3,200 acres in Massachusetts, 575 acres in New Hampshire, 8,100 acres in New Jersey, 15,000 acres in Pennsylvania, and 25,000 acres in Virginia may be treated;

5. Applications will be made with air or ground equipment;

6. Spray mixture volumes of 20–100 gallons of water will be applied by ground equipment, 5–10 gallons of water will be applied by air;

7. Applications will be made by State-certified private or commercial applicators or persons under the direct supervision of a State-certified applicator;

8. Pydrin may be applied when there is a field average of:

a. 5 larval Colorado potato beetles per plant,

b. 2 overwintering Colorado potato beetle adults per plant, or

c. 5 first-generation Colorado potato beetle adults per plant.

9. Pydrin is toxic to aquatic organisms. It must be kept out of any body of water. It may not be applied where runoff is likely to occur. It may not be applied when weather conditions favor drift from treated areas. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

10. Fenvalervate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Buffer zone (feet), application height/method	Fenvalerate (application rate lbs./acre)			
	(.05)	(.1)	(.2)	(.4)
2 ft/ground spray:				
Freshwater	113	191	310	477
Saltwater	[1]			
8 ft/aerial spray [2]				
Freshwater	450	764	1240	1907
Saltwater				
15 ft/aerial spray [3]				
Freshwater	844	1433	2324	3576
Saltwater				
35 ft/aerial spray [4]				
Freshwater	1969	3344	5200	5200
Saltwater				

NOTE.—Mist blowers shall be treated as aerial spray-35 ft.

[1] Marine organism toxicity is low.
[2] For spraying low crops, such as celery or lettuce.
[3] For spraying taller crops, such as maturing corn.
[4] For spraying trees of even height, as in orchards.

It is recommended that pesticide applications be made when wind speeds are between 2 and 5 miles per hour. No pesticide applications are to be made when wind speeds exceed 10 miles per hour. Applications closer than those allowed in the above chart may result in fish and/or invertebrate kills;

11. Fenevalerate is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service of each State;

12. Potatoes treated according to the above provisions should not have residues of fenvalerate in excess of 0.02 ppm. Residues of fenvalerate in meat and milk should not exceed 0.02 ppm. Potatoes with residues of fenvalerate which do not exceed 0.02 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

13. Root crops other than potatoes may not be planted for 12 months after the last application. No other crop may be planted for 60 days after the last application;

14. The EPA will be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with these exemptions; and

15. The Applicants are each responsible for assuring that all of the provisions of its specific exemption are met and must submit a report summarizing the results of this program by February 15, 1981.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-21776 Filed 7-18-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1544-6; OPP-180456]

New York Department of Environmental Conservation; Issuance of Specific Exemption for Methomyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the New York Department of Environmental Conservation (hereafter referred to as the "Applicant") to use methomyl on 4,282

acres of pears to control the oblique-banded leafroller and the green fruitworm. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Rm. E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: According to the Applicant, the products registered for use on pears, azinphosmethyl, phosmet and phosalone, provide inadequate control of the oblique-banded leafroller in New York pear orchards. The Applicant also stated that unencapsulated ethyl or methyl parathion do not control the species, oblique-banded leafroller and green fruitworm, in New York. The Applicant claimed that without the use of methomyl growers would be required to use Penncap-M. According to the Applicant, this could result in substantial honey bee losses, reduced honey production, and adverse effect to the production of a wide range of crops besides pears. The financial loss could greatly exceed the $2.5 million dollar figure for pears produced in 1975. The Applicant proposed to make one application of methomyl at petal fall at a rate of 1.8 lbs. or less active ingredient (a.i.) per acre.

EPA has determined that the proposed use should not result in residues of methomyl in or on pears in excess of 1 part per million (ppm). This residue level has been judged adequate to protect the public health. The proposed use should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption exist. Accordingly, the Applicant has been granted a specific exemption to use the pesticide named above to the extent and in the manner set forth in the application until July 31, 1980. The specific exemption is also subject to the following conditions:

1. Use of the E.I. du Pont de Nemours and Company's product Lannate (EPA Reg. No. 352–342), and the Shell Chemical Company's product Nudrin (EPA Reg. No. 201–329) is authorized. If unregistered labels are used, they must contain the identical applicable precautions and restrictions which appear on the registered labels;

2. A single application of methomyl will be made at petal fall at 1.8 pounds or less a.i. per acre. It should be noted that applications at this rate could result in a 60 percent bee kill to bees working in the area of application. Data indicate that methomyl will provide acceptable control of these pests when applied at 0.675 to 1.35 pounds per acre;

3. Spray mixture concentrations of 50–400 gallons (airblast sprayers) per acre will be used;

4. Orchard cover crops will not be grazed within 10 days of application;

5. A total of 4,282 acres may be treated;

6. A maximum of 7,708 pounds a.i. may be applied;

7. Applications will be made only when monitoring a minimum of 10 trees per orchard indicates that an action threshold of 2 or more larvae or fresh feeding sites per tree has been met or exceeded;

8. Application will be made by State-certified private or commercial applicators or persons under their direct supervision;

9. All applicable directions, restrictions, and precautions on the EPA-registered product label must be followed;

10. Residues of methomyl in or on pears from the proposed use should not exceed 1 ppm. Pears with residues of methomyl not exceeding 1 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

11. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

12. The Applicant is responsible for assuring that all the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 1980.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc 80–21773 Filed 7–18–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1544–2; OPP–180452]

Oregon Department of Agriculture; Issuance of Specific Exemption To Use Acephate To Control Cutworms and Alfalfa Loopers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use acephate to control cutworms and alfalfa loopers on 20,000 acres of peppermint in Oregon. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: specific exemption expires on August 31, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767), Room E–107, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202–426–0223.

SUPPLEMENTARY INFORMATION: The Applicant reports that the redbacked cutworm and other *Euxoa* spp. cause serious damage on peppermint in central and eastern Oregon by feeding on peppermint roots and stolons during April and May and on foliage during late May and June. The alfalfa and variegated cutworm have caused severe defoliation of mint during late June through August in western (Willamette Valley) and central Oregon. The Applicant also reports that although Dyfonate 10G (fonofos) is currently State-registered for control of the redbacked cutworm on mint, it is not widely used because: (1) Growers in central Oregon employ a non-tillage program to reduce the spread of a serious mint disease, verticillium wilt, (Dyfonate must be incorporated into the soil in order to be effective); (2) phytotoxicity is often encountered when Dyfonate G and Sinbar are used in the same mint fields; and (3) irrigation water, which is needed to seal the soil surface after Dyfonate is applied, is not always available to growers when needed. The Applicant reports that methomyl, as Lannate and Nudrin, is currently available for control of the variegated cutworm and alfalfa looper on mint. However, methomyl, which is temperature dependent, does not provide satisfactory control early in the season.

The Applicant claims that yields with the proposed use would be approximately 12 percent greater than yields obtained with registered pesticides. The Applicant estimates 50 to 60 percent control with registered pesticides and 96 to 98 percent control of insects with acephate.

The Applicant proposed the use of Orthene 75S, EPA Reg. No. 239–2418, which contains the active ingredient (a.i.) acephate. No more than two applications will be made per season at the dosage rate of 1.0 pound a.i. per acre. Application would be made in Crook, Deschutes, Jefferson, Malheur, and Umatilla Counties and in the Willamette Valley in western Oregon.

Acephate is currently registered for use on lemons, celery, cotton, beans, lettuce, soybeans, and peppers. EPA has determined that total residues of acephate and its metabolite (methamidophos) will not exceed 20 parts per million (ppm) in fresh peppermint hay. Significantly lower residues would occur in the spent hay, and residue levels would be undetectable (less than 0.05 ppm) in the mint oil. These residue levels have been judged adequate to protect the public health. The existing 0.1 ppm tolerance for acephate and its metabolite in meat, meat byproducts, milk, and fat is not likely to be exceeded by the feeding of spent hay to livestock.

EPA does not anticipate serious adverse effects to terrestrial vertebrates from the proposed program. Likewise, little hazard to aquatic organisms is expected. However, since acephate is highly toxic to bees, precautions have been imposed to prevent adverse effects to bees. In addition, certain precautions against contaimination of aquatic areas were required.

After reviewing the applications and other available exemption information, EPA determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The EPA-registered product Orthene 75S (EPA Reg. No. 239–2418) may be used at a rate of one pound a.i. per acre per application;

2. A maximum of two applications may be made with no applications permitted within 14 days of harvest;

3. A maximum of 40,000 pounds a.i. may applied to 20,000 acres of mint in the areas named above;

4. Applications may be made with ground or air equipment;

5. Spray mixture volumes of 20–100 gallons per acre will be applied by ground equipment or 5–10 gallons per acre by aircraft;

6. All applications will be made by qualified growers using their own equipment or by State-licensed commercial applicators. Oregon State Extension agents and extension specialists will furnish information on procedures;

7. Precautions will be taken to avoid spray drift to non-target areas. The pesticide will not be applied when weather conditions favor drift;

8. Care will be exercised to keep the pesticide out of lakes, streams, or ponds, and to prevent contamination of water by the cleaning of equipment or disposal of wastes;

9. This product may not be applied to mint fields in bloom when bees are present in the area unless such applications are made during late afternoon, early evening, or early morning when bees are not actively foraging;

10. Combined residues of acephate and its metabolite methamidophos are not expected to exceed 20 ppm in fresh and spent peppermint hay. Residues in mint oil are expected to be undetectable (less than 0.05 ppm). Fresh and spent peppermint hay and mint oil with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

11. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

12. The Applicant is responsible for ensuring that all of the provisions of the specific exemption are met and must submit a report summarizing the results of this program by January 15, 1981; and

13. The EPA shall be informed immediately of any adverse effects resulting from the use of acephate in connection with this exemption.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–21777 Filed 7–18–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1544–1]

Petition to Add Phosphate To the List of Conventional Pollutants Published Pursuant to Section 304(a) of the Clean Water Act

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Request for public comment on a petition from the FMC Corporation, Hooker Chemicals and Plastics Corporation, and Stauffer Chemical Company to add phosphate to the list of conventional pollutants under Section 304(a) of the Clean Water Act.

SUMMARY: This notice invites public comment on a petition from the FMC Corporation, Hooker Chemicals and Plastics Corporation, and Stauffer Chemical Company requesting the listing of phosphate as a conventional pollutant. The EPA is making available for public comment all information supplied by the above named companies to support the petition. EPA will review all comments in response to this proposal before deciding on its response to this petition.

DATE: Public comment on this petition is accepted until October 20, 1980.

FOR FURTHER INFORMATION AND SUBMISSION OF COMMENTS CONTACT: Mr. Joseph Krivak, Director, Criteria and Standards Division (WH–585), Office of Water Planning and Standards, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, (202–755–0100).

SUPPLEMENTARY INFORMATION: On June 2, 1980 the FMC Corporation, Hooker Chemical and Plastics Corporation, and Stauffer Chemical Company requested that the EPA classify phosphate as a conventional pollutant as defined under section 304(a) of the Clean Water Act.

Under the Clean Water Act there are now effectively three classes of pollutants for purposes of effluent limitations guidelines:

—Toxic pollutants identified pursuant to section 307(a) of the Act;
—Conventional pollutants identified pursuant to section 304(a)(4); and
—The remaining class of non-conventional pollutants, which are all pollutants not classified as toxic or conventional.

While dischargers of toxic and non-conventional pollutants must, by July 1, 1984, meet effluent limitations representing "best available technology economically achievable" ("BAT"), limitations on conventional pollutants are to be based on "best conventional pollutant control technology" ("BCT"). Pursuant to section 304(b)(4)(B), BCT is set only after application of a "cost reasonableness" assessment. On August 29, 1979, EPA published a methodology for performing this assessment (44 FR 50732).

Section 304(a)(4) of the Act requires that

> The Administrator shall, within 90 days after the date of enactment of the Clean Water Act of 1977 and from time to time thereafter, publish and revise as appropriate information identifying conventional pollutants, including but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. The thermal component of any discharge shall not be identified as a conventional pollutant under this paragraph.

On July 28, 1978, EPA published a notice designating biochemical oxygen demand, total suspended solids, fecal coliform and pH as conventional pollutants. In this notice the Agency identified two criteria for selection of conventional pollutants. First,

conventional pollutants are generally those pollutants which are naturally occurring, biodegradable, oxygen demanding materials, and solids and which have characteristics similar to naturally occurring biodegradable substances. Second, conventional pollutants include those classes of pollutants which traditionally have been the primary focus of wastewater control. Based on these criteria, EPA concluded that conventional pollutants may include suspended solids, oxygen demanding substances and nutrients. On July 30, 1979, EPA designated oil and grease as a conventional pollutant and codified the list as 40 CFR 201.16 (44 FR 44501).

The FMC Corporation, Hooker Chemical and Plastics Corporation, and Stauffer Chemical Company now assert that phosphates meet these criteria and have submitted a petition requesting their designation as conventional pollutants. EPA is publishing this notice to solicit comments on the propriety of such a designation for phosphates.

In the notice of July 28, EPA proposed the designation of phosphorus as a conventional pollutant based on its nutrient properties and role in contributing to nuisance aquatic growth and eutrophication. EPA decided, in response to comments, to withdraw this proposal stating:

> The Agency recognizes the relationship of phosphorus to problems of water quality degradation and believes that nutrients, such as phosphorus, may be proper candidates for inclusion in the list of conventional pollutants. Nonetheless, phosphorus is not being added at this time. The primary reason for this decision is that phosphorus is an environmental problem only in limited geographical areas. (44 FR 44502)[1]

One fact, not identified in the accompanying petition, may be of significnce in this matter. Under the Clean Water Act water-quality (section 301(g)) and economic (section 301(c)) waivers from BAT are available for non-toxic, non-conventional pollutants. Such waivers are not available from BCT, and the designation of phosphorus as a conventional pollutant would require industries to achieve BCT on a nation-wide basis regardless of local water quality conditions or economic capability of individual facilities. If BCT is established for an industry at a level more stringent than BPT, designation of phosphates as a conventional pollutant could result in greater overall costs to industry than retaining its status as a non-toxic, non-conventional pollutant. It is possible, however, that depending on the treatment level existing after the granting of an economic or environmental waiver to BAT requirements the opposite could be true. There is no way to determine this now as BAT requirements are just being established and procedures are not yet in place to grant environmental or economic waivers. Comments on this issue are requested.

EPA will review all comments submitted in response to this notice before deciding on its response to the accompanying petition to list phosphates as conventional pollutants.

Dated: July 10, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management (WH-585)

Identification of Phosphate as a Conventional Pollutant

Petition for Issuance of a Rule

FMC Corporation, Hooker Chemicals & Plastics Corp. and Stauffer Chemical Company hereby petition The Administrator of the United States Environmental Protection Agency ("EPA") to issue a rule identifying phosphate as a conventional pollutant in accordance with section 304(a)(4) of the Clean Water Act (the "Act"), 33 U.S.C. 1314. This petition is submitted under the authority of 5 U.S.C. 553(e), which grants to "an interested person the right to petition for the issuance, amendment or repeal of a rule." Petitioners operate industrial plants in the United States which produce elemental phosphorus and phosphorus-derived products and which discharge phosphate into the nation's navigable waters. Therefore, Petitioners are "interested person[s]" within the meaning of this section.

I. Background

The Clean Water Act Amendments of 1977 (the "1977 Amendments") established a new category of pollutants—"conventional pollutants"—subject to new statutory requirements for effluent limitations. Section 304(a)(4) of the Act, as amended, requires the Administrator of EPA to "publish and revise as appropriate information identifying conventional pollutants, including but not limited to, pollutants classified as bioloigical oxygen demanding, suspended solids, fecal coliform, and pH." For pollutant identified as conventional pollutants, the applicable technology-based discharge limitations must reflect application of "best conventional pollutant control technology" ("BCT") pursuant to Section 301(b)(2)(E) and Section 304(b)(4) of the Act.

BCT is to be determined through consideration of the reasonableness of the relationship between the costs of attaining a reduction in pollutant discharges and the benefits derived from such reduction. Morever, EPA is required to compare the cost and level of pollutant abatement achieved by publicly owned treatment works with the cost corresponding pollutant abatement by industrial point sources. Effluent limitations based on BCT are to be achieved no later than July 1, 1984, and are in lieu of limitations representing "best available technology economically achievable" ("BAT") previously required to be established under the Federal Water Pollution Control Act of 1972 (the "1972 Act"). For pollutants not listed as conventional, *(i.e., toxic and non-conventional, non-toxic pollutants), application of BAT will still be required by the amended Act.*

The designation of a pollutant as "conventional" may be of great economic significance to an industry category discharging that pollutant, without any sacrifice of environmental goals under the Act. BCT limitations for conventional pollutants must meet a test of "cost reasonableness" not required of BAT. Thus, BCT in some instances will result in limitation which are less stringent and economically burdensome and which are more closely related to environmental need than those established under BAT. The establishment of BCT for conventional pollutants reflects Congressional intent that EPA avoid treatment for treatment's sake.

On July 28, 1978, pursuant to Section 304(a)(4) of the Clean Water Act, EPA published a notice in the **Federal Register** listing four substances as conventional pollutants and proposing to list three additional substances. 43 FR 32857. Phosphate [1] was among the pollutants proposed to be listed.

In this notice EPA, relying on the legislative history and Congressional intent underlying the 1977 Amendments, set forth the criteria to be used in identifying a conventional pollutant. Essentially, EPA concluded that it should list as conventional those classes of pollutants "which are naturally occurring, biodegradeable, oxygen demanding materials, and solids which have similar characteristics to naturally

[1] The term "phosphorus" is a misnomer when used in this context. "Phosphorus" refers to phosphates, the oxidized form of phosphorus being discharged to the aquatic environment. The petitioners are correct in using the term "phosphates" in the petition.

[1] In the EPA's **Federal Register** notices dealing with conventional pollutants, EPA used the term "phosphorus". Since EPA meant phosphorus as P (measured by the approved EPA analytical method) rather than elemental phosphorus, this petition uses the term "phosphate" in order to avoid confusion.

occurring biodegradeable substances", substances which have "adverse environmental effects", and substances which have "traditionally have been the primary focus of wastewater control". Based on these criteria, EPA identified three classes of substances which might qualify as conventional pollutants: oxygen demanding substances, solids, and nutrients.

In support of its proposal to list phosphate as a conventional pollutant, EPA noted that phosphate traidtionally has been of concern in wastewater control and that phosphate is a nutrient whose growth enhancing properties on aquatic plants under certain aquatic conditions may have an adverse impact on receiving waters, including acceleration of eutrophication.

On July 10, 1979, EPA withdrew its proposal to designate phosphate as a conventional pollutant. At the same time, EPA confirmed the use of the selection criteria and pollutant classes identified in its 1978 notice for use in future listings of conventional pollutants. 44 FR 44501. Despite its recognition of the potential impact of phosphate on water quality and despite its belief that nutrients such as phosphate "may be proper candidates for inclusion in the list of conventional pollutants", EPA decided not to list phosphate "at this time". EPA stated that the primary reason for its decision was that phosphate is an environmental concern only in limited geographical areas. *Id. at 44502.*

EPA also referred to the public comments filed in response to the proposed listing. Comments opposed to listing stated, among other things, that (1) the discharge of phosphate from industrial point sources in insignificant compared to amounts entering receiving waters from non-point sources, (2) only a limited number of waters suffer environmental degradation caused by phosphate, and (3) phosphate could not be a conventional pollutant because it is not controlled by secondary treatment at a POTW. Comments in support of the proposal noted that phosphate, as a nutrient, may contribute to eutrophication.

EPA's failure to list phosphate as a conventional pollutant has the effect of placing phosphate in the category of "non-conventional pollutants", the discharge of which is subject to BAT-based rather than BCT-based effluent limitations. Petitioners submit that neither the Clean Water Act Amendments of 1977, nor the legislative history of those amendments, nor EPA's own criteria for identifying conventional pollutants support the regulation of phosphate as a nonconventional pollutant subject to BAT. Rather, these authorities indicate that phosphate should be identified and regulated as a conventional pollutant pursuant to Sections 301(b)(2)(E), 304(a)(4) and 304(b)(4) of the Act.

II. Grounds Supporting This Petition

A. *The Legislative History Of The Clean Water Act Amendments Of 1977 And EPA's Own Criteria Support The Identification Of Phosphate As A Conventional Pollutant.* Section 304(a)(4) of the Clean Water Act, as amended in 1977, requires EPA to "publish and revise as appropriate information identifying conventional pollutants, including but not limited to pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH." The legislative history of the 1977 Amendments identifies several criteria to be applied by EPA in adding to the statutory list of conventional pollutants. In major part, EPA has implemented Congressional intent in establishing its own criteria for identifying conventional pollutants. Phosphates meets these Congressional and Agency criteria.

1. *Phosphate May Have an Adverse Impact on Water Quality and for This Reason Has Been Subjected To Control To Achieve State Water Quality Standards.*

The legislative history indicates that conventional pollutants are substances which have an adverse effect on water quality and the effects of which have been subjected to regulation under State water quality standards. H.R. Conf. Rep. No. 95–830, 95th Cong., 1st Sess. (1977); 123 *Cong. Rec.* H12927–28, H12944 (December 15, 2977). Consistent with the legislative history of the 1977 Amendments, EPA has designated "those classes of pollutants which traditionally have been a primary focus of wastewater control" as candidates for identification as conventional pollutants. 43 FR 32857. Furthermore, EPA has recognized that phosphate "is a pollutant which traditionally has been of concern in wastewater control and treatment". 43 FR 32858.

Under certain circumstances, phosphate, as a nutrient, can have an adverse impact on water quality. In its July 1978 **Federal Register** notice proposing to list phosphate as a conventional pollutant, EPA identified nutrients as one of three classes of conventional pollutants. In the same notice, EPA recognized that phosphate "is a nutrient" whose "growth enhancing properties on aquatic plants and the resultant environmental degradation are well known". *Id.* State agencies traditionally have included limits for phosphate in discharge permits, where appropriate, for example, to ensure maintenance of the water quality standard for dissolved oxygen. In this context, phosphate exhibits one of the characteristics associated with conventional pollutants in the legislative history and in EPA's criteria.

2. *Phosphate Has in the Past Been Regulated Under "Best Practicable Control Technology" ("BPT").*

The legislative history also indicates that conventional pollutants are substances which, prior to the time of the 1977 Amendments, had been subject to regulation under effluent limitations based on the "best practicable control technology" ("BPT"). *See* 123 *Cong. Rec.* S13540 (August 4, 1977) (remarks of Senator Muskie); 123 *Cong. Rec.* H12928 (December 15, 1977) (remarks of Congressman Roberts). This legislative intent is also recognized in EPA's criterion that conventional pollutants are those "which traditionally have been a primary focus of wastewater control."

Under the 1972 Act, BPT was applied to the phosphate discharges of several categories of industrial point sources, both in individual NPDES permits and in effluent limitation guidelines for phosphate-related industries. For example, effluent limitation guidelines reflecting application of BPT to phosphate discharges were promulgated for the Electroplating Point Source Category,[2] the Fertilizer Manufacturing Point Source Category,[3] the Phosphate Manufacturing Point Source Category,[4] and the Glass Manufacturing Point Source Category.[5] The fact that phosphate discharges were regulated during the BPT period, prior to the 1977 Amendments, is another indication that phosphate should be listed as a conventional pollutant.[6]

3. *Phosphate Is Similar In Characteristics To Naturally Occurring, Biodegradeable, Oxygen Demanding Materials, And Is Non-Toxic.*

The clearest definition of conventional pollutants appearing in the legislative history describes conventional pollutants as:

[2] 40 CFR 413.12, .22, .42 and .62.

[3] 40 CFR 418.12.

[4] 40 CFR 422.12, .22, .32, .42 and .62.

[5] 40 CFR 426.52 and .72.

[6] Although phosphate may not have been commonly subjected to secondary treatment at publicly owned treatment works ("POTWs"), EPA has taken the position that treatment at a POTW is not a factor in the selection of conventional pollutants. 43 FR 38528; 44 FR 44502. In EPA's words, "if a pollutuant is not commonly treated by POTW technology but would otherwise meet the criteria for a conventional pollutant, it may be designated as a conventional pollutant." 43 FR 32858.

Generally those pollutants which are naturally occurring, biodegradeable, oxygen demanding materials and solids. In addition, compounds which are not toxic and which are similar in characteristic to naturally occuring, biodegradeable substances * * *. 123 *Cong. Rec.* H12928.

A similar description of conventional pollutants appears in the Senate Report on S. 1952. S. Rep. at 44. Moreover, EPA has adopted this definition as one of its criteria for the identification of conventional pollutants. 43 FR 32857; 44 FR 44501.

Phosphate is a naturally occurring substance. Phosphate is not biodegradeable or oxygen demanding in the same sense that certain organic materials are consumed by aquatic microorganisms. However, as a nutrient, phosphate is an essential element in the process of biodegradation of organic compounds in the aquatic environment. Without phosphate in their "diet", aquatic microorganisms would be incapable of consuming organic material. Moreover, under certain circumstances, phosphate can significantly contribute to the excessive growth of aquatic plants, which, in turn, may reduce the dissolved oxygen content of the receiving water as a result of both diurnal variation and plant decay. Accordingly, EPA itself has concluded that nutrients such as phosphate are "similar" to biodegradeable oxygen demanding substances (43 FR 32858) and that nutrients such as phosphate "may be proper candidates for inclusion in the list of conventional pollutants." (44 FR 44502.)

EPA's conclusion in this respect is consistent with the legislative history quoted above. That legislative history identifies conventional pollutants as those which are "similar in characteristic" to naturally occurring, biodegradeable materials. This language reflects a clear Congressional intent that some substances which, in a direct sense, are not by themselves biodegradeable or oxygen demanding should be classified as conventional pollutants because they contribute to biodegradation.

Further, the Congress specified that conventional pollutants are non-toxic. It is indisputable that *phosphate* is not a toxic pollutant parameter comparable in any reasonable sense to the compounds in the priority pollutant list adopted by EPA and endorsed by the Congress in the 1977 amendments.

B. *EPA's Decision Not To List Phosphate As A Conventional Pollutant Has Serious Regulatory Implications.* EPA's decision not to list phosphate as a conventional pollutant will have regulatory effects which are at odds with Congressional intent as revealed in the legislative history. EPA's approach to establishing BPT and BAT for phosphorous-related industries under the 1972 Act strongly suggests that, in the absence of designation of phosphate as a conventional pollutant, phosphate discharges from such industries could be subject to nationally applicable BAT effluent limitation guidelines for non-conventional, non-toxic pollutants under the 1977 Amendments. Even if such effluent limitation guidelines were not promulgated, phosphate discharges nonetheless will be subject to BAT as established for individual plants in accordance with the best engineering judgment of NPDES permit-issuing authorities. Thus, the failure of EPA to designate phosphate as a conventional pollutant is likely to lead to the treatment of phosphate "for the sake of treatment", contrary to the intent of Congress that EPA consider the cost-reasonableness of regulation of pollutants which exhibit the characteristics of the conventional pollutants specifically listed in the 1977 Amendments. [7]

EPA's failure to list phosphate as a conventional pollutant appears to have been based neither on the intent of the Congress as expressed in the legislative history nor on EPA's own criteria, as derived from the legislative history. Rather, EPA's failure in this regard appears to have been based solely on the public comments filed in response to the proposed listing of phosphate as a conventional pollutant. Explaining its decision not to list phosphate as a conventional pollutant, EPA acknowledged the "numerous commentators" who urged EPA "to remove (phosphate) from consideration as a conventional pollutant". 44 FR 44502. However, many of these comments are based on an apparent misunderstanding of the significance of listing a substance as a conventional pollutant and the mechanics involved in determining BCXT (or BAT) for industrial dischargers of such a pollutant.

For instance, several commenters objected to the listing of phosphate as a conventional pollutant because such listing would result in application of "across-the-board" or "blanket" effluent limitations based on BCT for whole categories of industrial point sources. These commenters suggested that if phosphate were not regulated as a conventional pollutant under BCT, it would be regulated only on a case-by-case basis in connection with water quality standards applicable to receiving waters. In fact, as already noted, phosphate would not be regulated exclusively by reference to water quality standards. Rather, phosphate would be subject to BAT as a non-conventional, non-toxic pollutant under Section 301(b)(2)(F) regardless of whether such a degree of control is required to achieve water quality standards. Technology-based limitations reflecting BAT would be as stringent, or more stringent, than those reflecting BCT. In any event, effluent limitation guidelines representing BAT would be no less "across-the-board" or "blanket" than effluent limitation guidelines representing BCT.

Other commenters observed that the discharge of phosphate has an adverse impact on water quality only in a limited number of water bodies, such as lakes, reservoirs, estuaries and other poorly drained aquatic environments. For this reason, they urged that phosphate should be regulated only on a case-by-case basis, under applicable water quality criteria. EPA, without explanation, denoted these comments as persuasive. In its July 1979 **Federal Register** notice, EPA stated that the primary reason for its decision not to list phosphate as a conventional pollutant "at this time" was that phosphate "is an environmental problem only in limited geographical areas." 44 FR 44502. Petitioners do not dispute the validity of the observation that the impact of phosphate on water quality is dependent on variable conditions in the receiving water. However, as Petitioners have already noted, absent regulation of phosphate as a conventional pollutant under BCT, all phosphate discharges would be subject, at a minimum, to the imposition of BAT-based limitations, irrespective of their particular geographical locale or the quality of the receiving stream.

Furthermore, neither the Act, its legislative history, nor EPA's own criteria suggest that only those pollutants creating adverse

[7] In this regard, Petitioners also note that the failure to designate phosphate as a conventional pollutant, and the resultant regulation of phosphate under BAT, would be inconsistent with the position adopted by the Regulatory Analysis Review Group ("RARG") in its report on EPA's Effluent Limitation Guidelines for the Leather Tanning Industry, submitted by the Council on Wage and Price Stability on February 25, 1980. In this report, RARG recommended that EPA consider the cost-reasonableness of proposed regulations establishing effluent limitation guidelines for various industries, even where such guidelines are based on BAT. RARG's recognition of the importance of cost-reasonableness in this area of regulation further supports classification of phosphate as a conventional pollutant for which cost-reasonable regulation is not merely recommended but is expressly mandated by statute.

environmental effects which are uniform throughout the nation may be listed as conventional pollutants. Clearly most, if not all, pollutants will have impacts on the environment that vary from locale to locale depending on the particular characteristics of the receiving waters. Indeed, the Congressional objective in creating BCT—the avoidance of treatment for treatment's sake—strongly suggests that variability of impact on receiving waters by a non-toxic pollutant should be a reason *in favor of* listing that pollutant as conventional.

Several of the comments also noted that the amount of phosphate entering receiving waters from industrial point sources is very minor in comparison to the amount entering from non-point sources, such as waste products from domestic animals, field runoff, and effluents from other agricultural sources. According to these comments, listing phosphate as a conventional pollutant would have minimal beneficial effects on water quality, and the large expenditures to the incurred in controlling such discharges from industrial point sources would not be cost-justified. Again, Petitioners note that technology-based limitations will apply to phosphate discharges *in any event.* If limitations based on BCT are not applied to sources discharging phosphate, limitations based on BAT will be imposed. And, if the water quality benefits of mandatory technology-based controls on industrial discharges of phosphate will indeed be minimal, this is all the more reason to regulate phosphate on the basis of a control technology which is cost-reasonable and designed to avoid "treatment for treatment's sake," that is, BCT.

The arguments advanced in the public comments opposing the identification of phosphate as a conventional pollutant simply fail to establish that phosphate is an inappropriate subject for identification as a conventional pollutant and regulation under BCT. Irrespective of their substantive validity, the comments fail to recognize that the issue is not whether phosphate will or will not be regulated under technology-based controls, but rather which technology-based controls will be applied to phosphate—those reflecting application of BCT or those reflecting application of BAT. Equally important, EPA's apparent reliance on those comments is misplaced not only because the comments reflect a misunderstanding of the Congressional framework for wastewater control but also because the comments address issues which are irrelevant or contrary to the Congressional and Agency criteria for designating conventional pollutants.

III. Relief Requested by This Petition

Petitioners request that the Agency initiate a rulemaking proceeding for the purpose of issuing a rule identifying phosphate as a conventional pollutant under Section 304(a)(4) of the Clean Water Act.

Petitioners further request that the Agency act promptly to grant the requested relief so that the NPDES permit limitations on phosphate which will be included in second- and third-round permits can be based on BCT rather than BAT.

Dated: June 2, 1980.

Respectfully submitted.

Douglas E. Kliever,
Henry J. Plog, Jr.,
Mary B. Coe,
Cleary, Gottlieb, Steen & Hamilton, 1250 Connecticut Avenue NW., Washington, D.C. 20036, (202) 828–3000. Attorneys for FMC Corporation, Hooker Chemicals & Plastics Corp., and Stauffer Chemical Company.

[FR Doc. 80–21778 Filed 7–18–80; 8:45 am]
BILLING CODE 6560–01–M

[FRL 1544–5; OPP–180467]

Rhode Island Department of Environmental Management; Issuance of Specific Exemption To Use Fenvalerate To Control Colorado Potato Beetle on Potatoes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Rhode Island Department of Environmental Management (hereafter referred to as the "Applicant") to use fenvalerate (Pydrin) for the control of the Colorado potato beetle on 3,300 acres of potatoes in Rhode Island. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on September 15, 1980.

FOR FURTHER INFORMATION CONTRACT: Donald R. Stubbs, Registration Division (TS–767), Room E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: The potato beetle is perhaps the best known beetle in the United States. Both the larvae and the adults feed on leaves of potato plants. This feeding may result in defoliation of the vines which prevents development of tubers or greatly reduces yield. Although Guthion, Imidan, methoxychlor, Monitor, parathion, Furadan, and Thiodan are registered for use on: potatoes to control this pest, the Applicant claims that these pesticides are unsatisfactory for Colorado potato beetle control due to pesticidal resistance. Temik is registered for an at-planting use and will control beetles only at planting and their first brood. Last year Vydate was registered for control of the beetle on potatoes; however Vydate is effective against the larvae only, not the adult. The Applicant estimates a loss of 1.4 million dollars due to the Colorado potato beetle.

The Applicant proposed to use fenvalerate, manufactured under the trade name Pydrin, at a rate of 0.1 to 0.2 pound active ingredient (a.i.) per acre per application, using ground equipment. A total of 4 applications may be made at 7-day intervals. State-certified private or commercial applicators or persons under their direct supervision will make the applications.

EPA has determined that residues of fenvalerate in or on potatoes and in milk or meat would not be expected to exceed 0.02 part per million (ppm) as a result of the proposed use. This residue level has been judged to be adequate to protect the public health. Since fenvalerate is highly toxic to bees and aquatic vertebrates and invertebrates, appropriate restrictions have been imposed. This use of fenvalerate is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Pydrin, manufactured by Shell Chemical Company, may be applied;

2. Pydrin may be applied at a rate of 0.1 to 0.2 pound a.i. per acre;

3. A maximum of four applications of Pydrin may be made with a pre-harvest interval of seven days;

4. A maximum of 3,300 acres of potatoes in Rhode Island may be treated;

5. Applications will be made with ground equipment;

6. Spray mixture volumes of 20–100 gallons of water will be applied by ground equipment;

7. Applications will be made by State-certified private or commercial

applicators or persons under their direct supervision;

8. Pydrin may be applied where there is a field average of:

a. 5 larval Colorado potato beetle adults per plant,

b. 2 overwintering Colorado-patato beetle adults per plant, or

c. 5 first-generation Colorado potato beetle adults per plant.

9. Fenvalerate is toxic to aquatic organisms. It must be kept out of any body of water. It may not be applied where runoff is likely to occur. It may not be applied when weather conditions favor drift from treated areas. Care must be taken to prevent contamination of water by cleaning of equipment of disposal of wastes;

10. EPA does not recommend the application of fenvalerate any closer to fish-bearing freshwaters, when using ground equipment, than 200 feet at the 0.1 pound a.i. per acre rate and 300 feet at the 0.2 pound a.i. per acre rate. It is recommended that pesticide applications be made where wind speeds are between 2 and 5 miles per hour. No pesticide applications are to be made where wind speeds exceed 10 miles per hour. Applications closer than those mentioned above may result in fish and/or aquatic invertebrate kills;

11. Fenvalerate is highly toxic to bees exposed to direct treatment or residures on crops or weeds. It may not be applied or allowed to drift to weeds in bloom which an economically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

12. Potatoes treated according to the above provisions will not have residues of fenvalerate in excess of 0.02 ppm. Residues of fenvalerate in meat and milk should not exceed 0.02 ppm. Potatoes with residues of fenvalerate which do not exceed 0.02 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

13. Root crops other than potatoes may not be planted for 12 months after the last application. No other crop may be planted for 60 days after planting;

14. The EPA will be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with this exemption; and

15. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by February 15, 1981.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc 80-21774 Filed 7-18-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1543-5;

Tennessee Department of Agriculture; Issuance of Specific Exemption for Use of Ethylene Dibromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Tennessee Department of Agriculture (hereafter referred to as the "Applicant") to use ethylene dibromide (EDB) to control the soybean cyst nematode, *Heterodera glycines,* on a maximum of 2,118, 818 acres of soybeans in Tennessee. The specific exemption is granted under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Critchlow, Registration Division (TS-767), Rm. E-107, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, 202/426-0223.

SUPPLEMENTARY INFORMATION: According to the Applicant, the soybean cyst nematode is the most serious pest of soybeans in Tennessee and its control becomes more difficult as new races are formed. DBCP was the only nemotocide recommended in Tennessee for economical control of the soybean cyst nematode. Due to the cancellation of the use of DBCP on soybeans, the Applicant claims that the producers no longer have a fumigant-type nematocide that is both economical and effective. The Applicant also stated that many farmers still have their injection equipment which could be used to apply EDB. The Applicant reports that the currently registered products for cyst nematode contol, Nemacur 3L, Namacur 15G, Temik 15G, Mocap 10G, and Mocap 6EC, will not control the cyst nematode so effectively or so economically as EDB when applied at planting.

The Applicant proposed to use Soilbrom-90 EC (EPA Reg. No. 5785-54) in an at-planting application of 1 to 2 gallons of formulation (16 to 32 pounds active ingredient) per acre with one shank per row. The Applicant also indicated that crop rotation will be used whenever possible; however, many farmers grow soybeans only. Resistant varieties will be used when available.

EPA has determined that residues of EDB per se from this use are below the method of detectability (0.01 part per million (ppm)). Residues of inorganic bromides should not exceed 125 ppm in soybeans and 150 ppm in soybean meal. These levels have been judged adequate to protect the public health. Since the proposed use might pose an exposure problem to applicators of EDB, EPA has imposed a clothing and respirator requirement for applicators unless a "closed system" is used.

It should be noted that a rebuttable presumption against registration of pesticide products containing EDB was published in the **Federal Register** of December 14, 1977 (42 FR 63134); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The ethylene dibromide product Soilbrom-90 EC (EPA Reg. N. 5875-54) may be used;

2. Application of EDB is not to exceed 32 pounds of active ingredient per acre per year;

3. Application is to be carried out in accordance with the supplemental labeling provided by the Great Lakes Chemical Company, except that use must be limited to the pest authorized by this exemption;

4. Applicators and others handling EDB must wear protective clothing and a respirator unless a "closed system" is used which prevents their coming in contact with EDB;

5. All applicable precautions and restrictions on the registered product label are to be observed;

6. No more than 2,118,818 acres of soybeans are to be treated;

7. Soybean hay from treated fields may not be used for feed;

8. Residues of inorganic bromide should not exceed 125 ppm in or on soybeans or 150 ppm in soybean meal from this program. Soybeans with less than 125 ppm and soybean meal with less than 150 ppm inorganic bromide residues may be moved in interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been notified;

9. The Applicant will sumit a report summarizing the results of this program by March 31, 1981; and

10. The EPA shall be immediately notified of any adverse effects resulting from the use of EDB in connnection with this exemption.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-21780 Filed 7-18-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1543-6; OPP-180470]

Washington State Department of Agriculture; Issuance of Specific Exemption To Use Carbofuran To Control Root Weevil on Cranberries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use 560 pounds of carbofuran to control populations of root weevils which are threatening the commercial cranberry crop on 140 acres in Pacific and Gray Harbor Counties, Washington. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Room: E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (202/426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, the primary pest is the black vine weevil (*Otiorhynchus sulcatus*). Other weevils which may be present are the strawberry root weevil (*O. ovatus*), the rough strawberry weevil (*O. rugostriatus*), and the obscure root weevil (*Sciopithes obscurus*). These pests occur principally in those cranberry bogs which are not flooded at harvest. Of the 1200 acres of cranberries grown in Washington State, about 700 acres are not flooded. The Applicant estimated that approximately twenty percent of the dry harvest bogs, about 140 acres, will need treatment with carbofuran this year.

These pests are indigenous to the area. Wildlands adjacent to the cranberry bogs contain alternate hosts which serve as reservoirs for new infestations. The larvae, which feed on the roots, may destroy virtually every cranberry plant as the pest spreads. Recovery can be expected only if the weevils are controlled before the damage becomes extensive. The Applicant stated that recent experience indicates that infestations will increase rapidly and cause widespread damage within the next two to five years.

There appear to be no alternative registered pesticides or non-chemical methods of control currently available to control these pests; malathion, registered for strawberry weevil control on cranberries, is of questionable efficacy, according to the Applicant. Flooding will control these pests, but bogs which are dry-harvested cannot be flooded because of slope or unevenness of the land. Prior to their cancellation, chlorinated hydrocarbon insecticides were registered for control of root weevils.

The Applicant proposed the use of two applications of the product Furadan 10G at a rate of two pounds of active ingredient per acre per application. A pre-harvest interval of at least sixty days will be observed. Broadcast applications will be made by State-certified commercial and private applicators using ground equipment in accordance with instructions provided by the Washington State University Cooperative Extension Service. Treatment will be limited to non-flooded bogs where infestations have been confirmed. According to the Applicant, nearly complete control can be obtained with applications of the Furadan granules at the rate proposed. The Applicant estimated that without treatment the ultimate cost to the industry could be as high as $1,995,000.

EPA has determined that cranberries should not have residues of carbofuran in excess of 0.2 part per million (ppm) from this use. This residue level has been judged adequate to protect the public health. This use should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 1, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product, Furadan 10 Granular, EPA Reg. No. 279-2712, manufactured by the FMC Corporation, is authorized. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. Furadan 10G will be applied at a rate of two pounds active ingredient per acre. A maximum of two applications may be made;

3. A maximum of 140 acres may be treated;

4. A maximum of 560 pounds active ingredient may be applied;

5. All applications will be made by broadcast ground equipment;

6. No application will be made within 60 days of any harvest;

7. Applications may be made only to non-flooded bogs;

8. Applications will be limited to those fields in which root weevil infestations have been confirmed by Washington State University Research or Extension personnel or by fieldmen from the Ocean Spray Cranberry Company;

9. All applications will be made by State-certified private and commercial applicators;

10. All applicable directions, restrictions and precautions on the product label must be followed;

11. The pesticide will not be applied in bogs which are being utilized by waterfowl as nesting or feeding sites;

12. For maximum wildlife protection it is recommended that treatment on non-flooded cranberry bogs be limited to spot treatment of root weevil sites; granules not be applied to bare ground or to bogs where vines are less than two inches in depth; and treated fields be irrigated within 24 hours of application.

13. This use will result in a residue level of not more than 0.2 ppm of carbofuran, its carbamate metabolite and its phenolic metabolities in or on cranberries. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

14. The EPA shall be informed immediately of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

15. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by January 25, 1981.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136)))

Dated: July 14, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-21779 Filed 7-18-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FIA-FEMA-80-1]

Mandatory Purchase of Flood Insurance Guidelines: Revision

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This revision to the revised Guidelines adds a reference to the initiation of a Map Information Facility which will determine for lenders and insurance agents by telephone and in writing whether an identified parcel of improved real property is situated within a FIA designated area of special flood hazard.

EFFECTIVE DATE: July 21, 1980.

CONTACT: Mr. James M. Rose, Jr., Deputy Assistant administrator for Insurance Operations, Federal Insurance Administration, (202) 755–5294, Room 5126, 451 seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

The Federal Insurance administration (FIA) currently distributes Flood Hazard Boundary Maps (FHBMs) and Flood Insurance Rate Maps (FIRMs) to lenders on a request basis. It is incumbent upon the lenders to determine whether improve real property is located within an identified special flood hazard area. However, lenders have informed FIA that the maps are often difficult to interpret. Furthermore, lenders have experienced delays in obtaining copies of specific maps. Therefore, in the interest of improving its service to the lending community, FIA is establishing a Map Information Facility (MIF).

The FIA has contracted with a private firm to provide a service of determining the location of improved real property in respect to the special flood hazard areas as delineated on FIA's FHBMs and FIRMs. Thus, the lender will be able to phone the MIF, at a toll-free number, describe to the operator the location of the property, and receive from the MIF system a determination whether the structure is within or outside an FIA identified special flood hazard area. The lender will also be mailed a written confirmation of the oral determination within three days of such a determination. Based on that determination, the lender will be able to determine whether such improved real property is subject to the flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973 as amended, (Pub. L. 93–234).

It is important to note that MIF services will be phased in on a state by state basis during the next two years. During the initial stages of its operation only Regular Program communities will be covered by the MIF. Notice of states and communities served will be publicized, in advance, by the FIA. As an additional service, the MIF will also provide information to assist insurance agents in preparing applications for flood insurance coverage. The MIF will provide information specifying the risk zone and the base flood elevation for the particular property in question.

It is FIA's intent, through the use of the MIF, to substantially reduce the quantities of maps it currently produces and distributes. As the MIF is phased in nationally, the general distribution of maps will be eventually phased out. FIA will continue to produce and distribute maps and studies to the community and concerned government agencies and maps will continue to be available upon specific request at designated depositories.

In the previously published Guidelines, dated July 17, 1974 and February 17, 1978, the FIA addressed the lender's obligation to exercise due diligence and make a good faith effort in determining from the use of maps whether a property is located in an area of special flood hazard. At the time, FIA stated "the descriptions of special flood hazard areas contained in Flood Hazard Boundary Maps and Flood Insurance Rate Maps in some instances may not be clear enough to permit institutions to decide with certainty and precision whether or not property which is the security for a loan or which is the subject of a loan is located in such an area." Accordingly, for the purposes of the Flood Disaster Protection Act of 1973 as amended, the Federal Insurance administrator determined that a lender's decision made in the exercise of due diligence and good faith as to the location of a property, which is the subject of a loan, on such map will be final and sufficient to comply with the Act, (43 FR 7143).

A declared purpose of the MIF is to provide a means whereby a lender may request from the MIF the determination as to whether improved real property is located in an area of special flood hazard. Therefore the administrator has similarly determined that, as an alternative to the use of Flood Hazard Boundary Maps and Flood Insurance Rate Maps, a lenders decision made in the exercise of due diligence and good faith in accordance with information received by the lender from the MIF as to the location of the property inquired about, which is the security for a loan or the subject of a Federally insured or guaranteed loan shall constitute a decision by a lender which will be final and sufficient to comply with the Flood Disaster Protection Act of 1973 as amended as well as the National Flood Insurance Act of 1968 as amended.

It is important to note that the MIF determination is necessarily based upon the property description furnished by the lender and the MIF determination will be accurate only to the extent that the lender has with due diligence furnished an accurate property description.

During the phase-in period for implementation of the MIF, lenders will not be precluded from using the currently effective FIA maps, i.e., those provided to the community, for making the required determination of a property's location without use of the MIF. Even after the MIF becomes fully operative, lenders may at their option continue to rely upon maps as the basis for making their own determinations.

The program number is 83100 "Flood Insurance".

Revision: In Docket No. N–78–842 appearing at 43 FR 7142 in the **Federal Register** of Friday, February 17, 1978 the following changes should be made:

On page 7143 under the heading "Background" paragraphs 2(e) and (f) are amended to read as follows:

(e) The descriptions of special flood hazard areas contained in Flood Hazard Boundary Maps and Flood Insurance Rate Maps in some instances may not be clear enough to permit lending institutions to decide with certainty and precision whether or not property is located in such an area. Accordingly, for the purposes of the Flood Disaster Protection Act of 1973 as amended as well as the National Flood Insurance Act of 1968 as amended and for the loan, the Federal Insurance Administrator has determined that a lender's decision made in the exercise of due diligence and good faith as to the location of improved real property, which is the security for a loan, or the subject of a federally insured or guaranteed loan, on such a map will be final and sufficient to comply with said Acts.

The Administrator has further determined that, as an alternative to the utilization of such maps, a lender's decision made in the exercise of due diligence and good faith in accordance with information received by the lender from the Federal Insurance Administration Map Information Facility (MIF) as to the location of the improved real property inquired about, which is the security for a loan, or the subject of a Federally insured or guaranteed loan,

shall also constitute a decision by the lender which will be final and sufficient to comply with said Acts.

(f) In such instances where a good faith finding has been made, in accordance with the procedures outlined in paragraph (e) above, by a lender or its agent, acting pursuant to the requirements of the Act, that the property is outside the special flood hazard area, such finding as to the location of the property shall be final with respect to such property, regardless of any subsequent contrary conclusion by any person, agency, or body, and regardless of any change of ownership of the property or status of the loan or transaction, provided, at the time of any subsequent making, increasing, extension, or renewal of a loan with respect to which the improved real property is the security for a loan or the subject of a Federally insured or guaranteed loan, the map upon which the original finding was based is still in effect and remains unrevised as to the property in question.

On page 7145 under the heading General Guidelines for Lenders the current paragraph 2(f) is amended to read as follows:

(f) The burden of ascertaining whether the location of the real property which is to be the security for a loan is within a designated area of special flood hazard rests upon the lender and the lender cannot discharge this responsibility by obtaining a self certification from the borrower that the property is not located in an area of special flood hazard. The lender must therefore ascertain the specific location of the property by whatever means are appropriate and must then determine whether it is shown as being in an area of special flood hazard on a Flood Hazard Boundary Map or a Flood Insurance Rate Map. The lender may perform that task itself or may utilize the Map Information Facility (MIF) which will provide the lender with that determination.

The MIF is responsible for providing to the lender an accurate determination as to whether a property is located in an FIA identified area of special flood hazard and it is the position of the Federal Insurance Administrator that if the lender utilizes the FIA MIF the lender's responsibility is limited to furnishing an accurate property description to the MIF and utilizing with due diligence and good faith the information provided in the Certificate of Determination.

However, because the Map Information Facility is being phased in on a State by State basis, the option to rely on the MIF will depend upon the status of the particular State and community in which the property is located.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968): effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended (42 U.S.C. 4001–4128): Reorganization Plan No. 3 of 1978 (43 FR 41943) and Executive Order 12127, dated March 31, 1979 (44 FR 19367) and Delegation of Authority to Federal Insurance Administrator)

Issue date July 9, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-21723 Filed 7-18-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Regulation Z; Joint Notice of Statement of Enforcement Policy

AGENCY: The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

ACTION: Statement of interagency enforcement policy—Regulation Z.

SUMMARY: This statement of enforcement policy summarizes and explains the restitution provisions of the Truth in Lending Act, as amended, which generally requires 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 to order restitution where annual percentage rates or finance charges are understated to consumers.

EFFECTIVE DATE: This statement shall become effective on July 11, 1980.

FOR FURTHER INFORMATION CONTACT: Alan Dombrow, Office of the Comptroller of the Currency, 202/447–1600; Peter M. Kravitz, Federal Deposit Insurance Corporation, 202/389–4512; John C. Price, Federal Home Loan Bank Board, 202/377–6571; Timothy R. Burniston, Federal Reserve Board, 202/452–3946; Ben Henson, National Credit Union Administration, 202/357–1080.

SUPPLEMENTARY INFORMATION: The Truth in Lending Simplification and Reform Act, Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, amended the Truth in Lending Act. Section 608 of the Truth in Lending Simplification and Reform act supercedes the statement of Regulation Z enforcement policy published by the federal financial institutions regulatory agencies in January of 1979. This document sets forth the principles that the agencies will use to enforce the restitution provisions of the Act. Coordination among the agencies is desirable to bring about uniformity in the administrative enforcement that will be taken when violations of the Act are detected.

The policy guide which follows generally addresses those violations which result in monetary and other adjustments to consumers. It should be emphasized that it will continue to be the policy of the enforcing agencies to require prospective corrective action whenever any violation of the Act is detected.

The agencies anticipate that financial institutions will voluntarily comply with the policy guide. In cases where voluntary compliance is not undertaken, the agencies will use their cease and desist authority to require correction.

The policy guide in no way forecloses the consumer's right to bring a civil action where authorized by the Act. Further, where willful violations are found which were intended to mislead the consumer, the agencies will also notify the Department of Justice.

Dated: July 11, 1980.

Mr. Griffith D. Garwood,

Deputy Secretary, Board of Governors of the Federal Reserve System.

Mr. Hoyle L. Robinson,

Executive Secretary, Federal Deposit Insurance Corporation.

Mr. J. J. Finn,

Secretary, Federal Home Loan Bank Board.

Ms. Rosemary Brady,

Secretary of the Board, National Credit Union Administration.

Mr. Lewis G. Odom, Jr.,

Senior Deputy Comptroller, Office of the Comptroller of the Currency.

Administrative Enforcement of the Truth in Lending Act—Restitution

The Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96–221), was enacted on March 31, 1980. Title VI of that Act, the Truth in Lending Simplification and Reform Act, amends the Truth in Lending Act, 15 U.S.C. 1601 *et seq.* Section 608 of Title VI, effective March 31, 1980, authorizes the Federal Truth in Lending enforcement agencies to order creditors to make monetary and other adjustments to the accounts of consumers in cases where an annual percentage rate or finance charge was inaccurately disclosed. It generally requires the agencies to order restitution when such disclosure errors resulted from a clear and consistent pattern or

practice of violations, gross negligence, or a willful violation which was intended to mislead the person to whom the credit was extended. However, the Act does not preclude the agencies from ordering restitution for isolated disclosure errors.

This policy guide summarizes and explains the restitution provisions of the Truth in Lending Act, as amended. The material also explains corrective actions the financial regulatory agencies believe will be appropriate and generally intend to take in those situations in which the Act gives the agencies the authority to take equitable remedial action.

The agencies anticipate that most financial institutions will voluntarily comply with the restitution provisions of section 608 as part of the normal regulatory process. If a creditor does not voluntarily act to correct violations, the agencies will use their cease and desist authority to require correction pursuant to: 15 U.S.C. 1607 and 12 U.S.C. 1818(b) in the cases of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency; 15 U.S.C. 1607 and 12 U.S.C. 1464(d)(2) and 1730(e) in the case of the Federal Home Loan Bank Board; and, 15 U.S.C. 1607 and 12 U.S.C. 1786(e)(1) in the case of the National Credit Union Administration.

Restitution Provisions

Definitions

Except as provided below, all definitions are those found in the Truth in Lending Act ("Act") and Regulation Z, 12 CFR Part 226.

1. "Current Examination" means the most recent examination begun on or after March 31, 1980, in which compliance with Regulation Z was reviewed.

2. "Irregular Mortgage Transaction" means a loan secured by real estate for which the annual percentage rate (APR) cannot be calculated using *Volume I of the Federal Reserve System's Truth in Lending, Regulation Z, Annual Percentage Rate Tables.*

3. "Lump Sum Method" means a method of reimbursement in which a cash payment equal to the total adjustment will be made to a consumer.

4. "Lump Sum/Payment Reduction Method" means a method of reimbursement in which the total adjustment to a consumer will be made in two stages:

(a) A cash payment that fully adjusts the consumer's account up to the time of the cash payment; and,

(b) A reduction of the remaining payment amounts on the loan.

5. "Understated APR" means:

a. For other than irregular mortgage transactions, a disclosed APR which, when increased by one-quarter of one percentage point, is less than the actual APR calculated under the Act, without taking into account the tolerance provided by section 107(c) of that Act.

b. For irregular mortgage transactions consummated before April 1, 1981, a disclosed APR which is less than the actual APR calculated under section 107(c) of the Act, including a one-half of one percentage point tolerance.

c. For irregular mortgage transactions consummated after March 31, 1981, but before April 1, 1982, a disclosed APR which, when increased by one-quarter of one percentage point (instead of one-half of one percentage point), is less than the actual APR calculated under the Act, without taking into account the tolerance provided by section 107(c) of that Act.

d. For all loans consummated after March 31, 1982 (including irregular mortgage transactions), which have an amortization schedule of 10 years or less, a disclosed APR which, when increased by one-quarter of one percentage point, is less than the actual APR calculated under the Act, without taking into account the tolerance provided by section 107(c) of the Act.

e. For all loans consummated after March 31, 1982 (including irregular mortgage transactions), which have an amortization schedule of more than 10 years, a disclosed APR which is less than the actual APR, including the tolerance contained in section 107(c).

f. For all loans determined to contain a willful violation intended to mislead a consumer, a disclosed APR which is less than the actual APR including the tolerance contained in section 107(c).

6. "Understated Finance Charge" means a disclosed finance charge which, when increased by a numerical tolerance that is generated by the corresponding APR tolerance,[1] is less than the finance charge calculated under the Act.

De Minimis Rule

If the amount of adjustment on an account is less than $1.00, no restitution will be ordered. However, the agencies may require a creditor to make any adjustments of less than $1.00 by paying into the United States Treasury, if more than one year has elapsed since the date of the violation.

Corrective Action Period

1. Open-end credit transactions will be subject to an adjustment if the violation occurred within the two-year period preceding the date of the current examination.

2. Closed-end credit transactions will be subject to an adjustment if the violation resulted from a clear and consistent pattern or practice or gross negligence where:

a. There is an understated APR on a loan which originated between January 1, 1977 and March 31, 1980.

b. There is an understated APR or understated finance charge, and the practice giving rise to the violation is identified during a current examination. Loans containing the violation which were consummated since the date of the immediately preceding examination are subject to an adjustment.

c. There is an understated APR or understated finance charge, the practice giving rise to the violation was identified during the prior examination, and the practice is not corrected by the date of the current examination. Loans containing the violation which were consummated since the creditor was first notified in writing of the violation are subject to an adjustment. (Prior examinations include any examinations conducted since July 1, 1969.)

3. Each closed-end credit transaction containing a willful violation intended to mislead the consumer consummated since July 1, 1969 is subject to an adjustment.

4. For terminated loans subject to 2 above, an adjustment will not be ordered if the violation occurred in a transaction consummated more than two years prior to the date of the current examination.

Calculating the Adjustment

Consumers will not be required to pay any amount in excess of the finance charge or dollar equivalent of the APR actually disclosed on transactions involving:

1. Understated APR violations on transactions consummated between January 1, 1977 amd March 31, 1980, or

2. Willful violations which were intended to mislead the consumer.

On all other transactions, applicable tolerances provided in the definitions of understated APR and understated finance charge may be applied in

[1] Finance charge tolerance: the finance charge tolerance for each loan will be generated by the corresponding APR tolerance applicable to that loan. For example, consider a single-payment loan with a one-year maturity which is subject to a one-quarter of one percent APR tolerance. If the amount financed is $5,000 and the finance charge is $912.50, the APR will be 18.25 percent. The finance charge generated by the APR of 18 percent on that loan would be $900. The difference between $912.50 and $900 produces a numerical finance charge tolerance of $12.50. If the disclosed finance charge is not understated by more than $12.50, reimbursement would not be ordered.

calculating the amount of adjustment to the consumer's account.

Methods of Adjustment

The consumer's account will be adjusted using the lump sum method or the lump sum/payment reduction method, at the discretion of the creditor.

Violation Involving the Nondisclosure of the APR or Finance Charge

1. In cases where an APR was required to be disclosed but was not, the disclosed APR shall be considered to be the contract rate, if disclosed on the note or the Truth in Lending disclosure statement.

2. In cases where an APR was required to be disclosed but was not, and no contract rate was disclosed, consumers will not be required to pay an amount greater than the actual APR reduced by one-quarter of one percentage point, in the case of first lien mortgage transactions, and by one percentage point in all other transactions.

3. In cases where a finance charge was not disclosed, no adjustment will be ordered.

Violations Involving the Improper Disclosure of Credit Life, Accident, Health, or Loss of Income Insurance

1. Through March 31, 1982:

a. If the creditor has not disclosed to the consumer in writing that credit life, accident, health, or loss of income insurance is optional, the insurance shall be treated as having been required and improperly excluded from the finance charge. An adjustment will be ordered if it results in an understated APR or understated finance charge. The insurance will remain in effect for the remainder of its term.

b. If the creditor has disclosed to the consumer in writing that credit life, accident, health, or loss of income insurance is optional, but there is either no signed insurance option or no disclosure of the cost of the insurance, the creditor shall, unless a claim was made on the insurance policy and paid, be required to send a written notice to the affected consumer disclosing the cost of the insurance and notifying the consumer that the insurance is optional and may by cancelled within 45 days to obtain a full refund of all premium charged. If the creditor receives no response from the consumer within 45 days, the insurance will remain in effect and no further corrective action, with respect to that loan, will be required.

2. After March 31, 1982, the above violations of section 106(b) of the Act will be treated as APR or finance charge violations for adjustment purposes, as applicable.

Special Disclosures

Adjustments will not be required for violations involving the disclosures required by sections 106 (c) and (d) of the Act.

Obvious Errors

If an APR was disclosed correctly, but the finance charge required to be disclosed was understand, or if the finance charge was disclosed correctly but the APR required to be disclosed was understated, no adjustment will be required if the error involved a disclosed value which was 10 percent or less of the amount that should have been disclosed.

Agency Discretion

Adjustments will not be required if the agency determines that the disclosure error resulted from any unique circumstance involving a clearly technical and non-substantive disclosure violation which did not adversely affect information provided to the consumer and which did not mislead or otherwise deceive the consumer.

Safety and Soundness

In connection with loans consummated before April 1, 1980, if full adjustments would have a significantly adverse impact upon the safety and soundness of the creditor, partial adjustments which do not have such an impact may be required. In connection with loans consummated after March 31, 1980, full adjustments will always be required. However, the affected creditor will be permitted to make the full adjustment in partial payments over an extended period in order to minimize the adverse impact on its safety and soundness.

Exemption From Restitution Orders

A creditor will not be subject to an order to make an adjustment if within 60 days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account to ensure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the APR disclosed, whichever is lower. This 60-day period for correction of disclosure errors is unrelated to the provisions of section 130, Civil Liability, of the Truth in Lending Act.

[FR Doc. 80-21755 Filed 7-18-80; 8:45 am]

BILLING CODE 6722-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-89]

Dominion Federal Savings & Loan Association of McLean, Va.; Final Action Approval of Conversion Application

July 15, 1980.

Notice is hereby given that on July 9, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-436, approved the application of Dominion Federal Savings and Loan Association of McLean, Virginia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal Building, 250 Peachtree Center, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc 80-21824 Filed 7-18-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-86]

First Federal Savings and Loan Association of Grenada, Grenada, Miss.; Final Action Approval of Conversion Application

July 15, 1980.

Notice is hereby given that on June 19, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-391, approved the application of First Federal Savings and Loan Association of Grenada, Grenada, Mississippi, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-21827 Filed 7-18-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-85]

Home Federal Savings & Loan Association of Meridian, Meridian, Miss.; Final Action Approval of Conversion Application

July 15, 1980.

Notice is hereby given that on June 19, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-390, approved the application of Home Federal Savings and Loan Association of Meridian, Meridian, Mississippi, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-21828 Filed 7-18-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-87]

Interamerican Federal Savings & Loan Association of Miami, Miami, Fla.; Final Action Approval of Conversion Application

July 15, 1980.

Notice is hereby given that on July 3, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-415, approved the application of Interamerican Federal Savings and Loan Association of Miami, Miami, Florida for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal Building, 250 Peachtree Center, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-21826 Filed 7-18-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-84]

Mission Savings Association, El Paso, Tex.; Final Action—Approval of Conversion Application

July 15, 1980.

Notice is hereby given that on July 10, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-439, approved application of Mission Savings Association, El Paso, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C., 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas, 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-21829 Filed 7-18-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-90]

Mutual Savings & Loan Association of Greenville, Tex.; Final Action Approval of Conversion Application

July 15, 1980.

Notice is hereby given that on July 9, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-437, approved the application of Mutual Savings and Loan Association of Greenville, Texas (name to be changed to First Modern Savings Association of Greenville, Texas), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-21823 Filed 7-18-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-88]

Victoria Federal Savings & Loan Association, Victoria, Tex.; Final Action Approval of Conversion Application

July 15, 1980.

Notice is hereby given that on July 3, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-425, approved the application of Victoria Federal Savings and Loan Association, Victoria, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-21825 Filed 7-18-80; 8:45 am]

BILLING CODE 6720-01-M

OFFICE OF THE FEDERAL REGISTER

Implementation of Office of the Federal Register Consumer Program Under EO 12160

AGENCY: Office of the Federal Register.

SUMMARY: This document advises Federal agencies on Office of the Federal Register plans to add a Consumer Subject Listing to the daily **Federal Register** and to the monthly **Federal Register Index**. In addition, the Office of the Federal Register announces a workshop on rulemaking for the professional consumer affairs staffs appointed by agencies.

DATES: Consumer Subject Listing—August 4, 1980, issue of the **Federal Register** Workshop—The Regulatory Process and the Consumer, July 29, 1980, 8:45 a.m.

ADDRESS: Workshop, Room 9407, 1100 L Street, NW, Washington, DC.

FOR FURTHER INFORMATION AND RESERVATIONS CONTACT: Richard Claypoole, Office of the Federal Register, National Archives and Records

Service, Washington, DC 20408, 202–523–5240.

SUPPLEMENTARY INFORMATION:

Consumer Subject Listing

The Office of the Federal Register, as part of the General Services Administration's Consumer Program (45 FR 38940, June 9, 1980) has developed a new research aid for consumers to enable them to use the **Federal Register** more easily. The success of this research aid is totally dependent on the cooperation of agencies which publish consumer interest documents in the **Federal Register.**

This research aid, a Consumer Subject Listing, is intended to identify, in one place in each issue of the **Federal Register,** those rules, proposed rules, or notices which relate to a subject of special interest to consumers. The determination of a consumer related document will be made by the agency issuing the document. The Consumer Affairs staff in each agency is encouraged to assist the regulations office or **Federal Register** liaison office in identifying these documents. EO 12160 requires that the Consumer Affairs staff review rules and proposed rules as they pass through the clearance process. At this review, these consumer related documents should be identified and the broad and specific subject matter should be typed on a separate sheet of paper and attached to the document.

When the document and the attached information identifying it as consumer related reaches the **Federal Register,** the editors will prepare the subject listing based on the information accompanying the document. A sample of the Consumer Subject Listing follows:

Consumer Subject Listing

The following items have been identified by the issuing agencies as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document. The issuing agency and the document category are listed also. For the page reference, please refer to the appropriate agency in today's table of contents.

Banking.—Mortgages, renegotiable rate; Federal Reserve System (Proposed rule) Premiums, finders fees, etc.; National Credit Union Administration (Proposed rule).

Communications.—Telephone deregulation and computer services; Federal Communications Commission (Rule).

Transportation.—Agency program; Transportation Department (Notice).

Workshops

One of the primary responsibilities of the consumer affairs staffs under EO 12160 is to represent the interest of consumers in the development and review of all agency rules, policies, and programs. To provide assistance in this effort, the Office of the Federal Register is offering a workshop that will give the agency consumer affairs staffs a comprehensive background in the rulemaking process, the legal requirements for public participation, the techniques to make legal documents more readable, and in how to structure documents to encourage public comment.

The Office of the Federal Register is in a unique position to present these workshops because of its role as the publisher of the official publication that covers all proposed Federal regulations and which tells the consumer how, when, and where to participate in the decision making process.

The workshop is intended for members of the agency Consumer Affairs Office appointed to meet the requirements of EO 12160. Because of space limitations, reservations are required and will be accepted on a first call, first served basis.

Ernest J. Galdi,

Acting Director of the Federal Register.

July 17, 1980.

[FR Doc 80-21880 Filed 7-18-80; 8:45 am]

BILLING CODE 1505-02-M

FEDERAL RESERVE SYSTEM

Amador Bancshares, Inc.; Formation of Bank Holding Company

Amador Bancshares, Inc., Las Cruces, New Mexico, 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 Citizens Bank of Las Cruces, Las Cruces, New Mexico. 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 August 14, 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, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21761 Filed 7-19-80; 8:45 am]

BILLING CODE 6210-01-M

Browns Valley Bancshares, Inc.; Formation of Bank Holding Company

Browns Valley Bancshares, Inc., Browns Valley, Minnesota, 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 Union State Bank, Browns Valley, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 14, 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, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21760 Filed 7-18-80; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorp Inc.; Acquisition of Bank

Central Bancorp Inc., Miami, Florida, 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 Central Bank, Palm Beach County, 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 August 14, 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, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21759 Filed 7-18-80; 8:45 am]

BILLING CODE 6210-01-M

R & B Management Corp.; Proposed Retention of Leasing Activities

R & B Management Corporation, Washington, Illinois, 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 continue to engage in the leasing of personal property in accordance with the Board's Regulation Y. These activities would be performed from an office in Washington, Illinois, and the geographic area to be served is within a radius of approximately 25 miles of that office. Such activities has 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 Chicago.

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 August 14, 1980.

Board of Governors of the Federal Reserve System, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21762 Filed 7-18-80; 8:45 am]

BILLING CODE 6210-01-M

Swanton Agency, Inc.; Proposed Retention of Insurance Agency Activities

Swanton Agency, Inc., Swanton, 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 continue to engage in the activity of operating a general insurance agency in a community with a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Swanton, Nebraska, and the geographic area to be served is the area surrounding Swanton, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissable 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 August 8, 1980.

Board of Governors of the Federal Reserve System, July 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-21763 Filed 7-18-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

Proposed U. S. World Heritage Nominations for 1981

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Public notice.

SUMMARY: The Department of the Interior, through the Heritage Conservation and Recreation Service, announces the identification of the following properties as proposed U.S. World Heritage nominations for 1981. These properties are the result of a six-month public comment and review process initiated through a January 9, 1980, **Federal Register** notice (45 FR 1947), and were selected from the potential U.S. World Heritage nominations previously announced in the **Federal Register** (May 30, 1980; 45 FR 36560). Draft nominations will be prepared for each property listed herein.

DATES: A Federal interagency panel will meet in November 1980 to review the accuracy and completeness of the draft nominations and will recommend properties to the Secretary of the Interior. The Secretary will transmit formal nomination(s) to the Department of State or or before December 1, 1980, for submission to the United Nations Educational, Scientific and Cultural Organization (UNESCO) by January 1, 1981. The United States World Heritage nomination(s) will be announced in the **Federal Register** on or before December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Ritsch, Acting Associate Director for Natural Programs, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243 (202-343-4278).

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 49 other Nations as of this date, establishes a means by which natural and cultural properties of outstanding universal value to mankind may be recognized and protected.

Sites may be identified and nominated by participating Nations for inclusion on

the World Heritage List. The 21-Nation World Heritage Committee then judges the nominations against established criteria.

The country nominating a site for inclusion on the World Heritage List assumes responsibility for taking all necessary and appropriate legal, scientific, technical, administrative and financial measures for the protection, conservation, presentation, rehabilitation and transmission to future generations of the property it nominates. The Department is seeking to clarify the legal implications of nominating non-Federal property to the World Heritage List and the Federal responsibility for preserving all U.S. properties included on the List, i.e., the need to ensure that owner(s) take all necessary measures to preserve the integrity of the World Heritage property. Until this legal question is resolved, U.S. nominations will be limited to properties owned or controlled by the Federal Government.

In the United States, the Secretary of the Interior is charged with implementing the provisions of the Convention, including preparation of U.S. nominations. Recommendations on the proposed nominations are made to the Secretary by an interagency panel including members from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the Heritage Conservation and Recreation Service, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Advisory Council on Historic Preservation; and the Department of State.

A January 9, 1980, **Federal Register** notice (45 FR 1947) identified the criteria which natural and cultural properties must satisfy in order to be placed on the World Heritage List.

Proposed U. S. World Heritage Nominations for 1981

The following natural and cultural properties, arranged alphabetically by State, have been identified as proposed U.S. World Heritage nominations for 1981. A brief description is provided for each area, along with the World Heritage criteria which applies to it.

Kentucky

Barren, Edmonson, and Hart Counties

Mammoth Cave National Park; 20 miles northeast of Bowling Green. This network of underground passages is the most extensive cave system known on earth, with 215 miles of surveyed, interconnected passages. It contains a diverse collection of cave plant and animal species, a wide variety of cave formations, and evidence of use by early subsistence societies.

Criteria (natural): (i) An outstanding example representing a major element of the earth's evolutionary history; (ii) an outstanding example representing significant ongoing geological processes, and evidence of human interaction with the natural environment; and (iii) a superlative example of a natural formation, and an area of exceptional natural beauty.

North Carolina

Dare County

Wright Brothers National Memorial. The first sustained flight in a heavier-than-air machine was completed here by Wilbur and Orville Wright on December 17, 1903.

Criteria (cultural): (vi) Importantly associated with persons and an event of outstanding historical significance.

Washington

Clallam, Grays Harbor, Jefferson, and Mason Counties

Olympic National Park; 50 miles west of Bremerton. Olympic National Park occupies the central portion and a narrow coastal strip of the Olympic peninsula. The area's diverse topography, ranging from alpine ridges and ice fields to offshore islets and sand spits, contains the finest remnant of Pacific Northwest temperate coniferous rain forest. Montane coniferous and subalpine forests are found at the Park's higher elevations. The rare Roosevelt elk is found here, along with an abundance of other mammals. The Park also contains internationally significant archeological sites.

Criteria (natural): (ii) An outstanding example of biological evolution; and (iii) an area containing superlative natural phenomena, and an area of exceptional natural beauty.

(Cultural): (ii) Of outstanding importance owing to its influence on subsequent developments in human settlements; and (v) a characteristic example of a significant traditional style of human settlement.

Dated: July 16, 1980.

David F. Hales,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 80-21833 Filed 7-18-80; 8:45 am]

BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

July 16, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before August 5, 1980. No. 43840, Southwestern Freight Bureau, Agent's No. B-73, rates on plasticizers or solvents, in tank carloads, from Taft, LA; Bayport, East Baytown, Houston and Texas City, TX, to Newark and North Bergen, NJ. Rates are published to become effective August 13, 1980 in Supplement 137 to ICC SWFB 3038-E and Supplement 115 to ICC SWFB 3355-D. Grounds for relief—market competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21736 Filed 7-18-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: July 15, 1980.

In our decision of May 13, 20 and 27, June 3, 10, 17, 24, and July 1 and 8, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.5 percent. While we have normally increased the surcharge when the index indicates a one-half percent increase, we are authorizing that the 13-percent surcharge for this traffic remain in effect. All owner-operators are to receive compensation at this level. The best information that we have indicates that at present, there is a surplus of diesel fuel with some price reductions occurring. Acordingly, the figures in this week's index may be an aberration. Therefore, we will not increase the surcharge this week. However, if the price figures in the index remain at the same level or increase in the next week, we will adjust the surcharge accordingly.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators,

the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m. July 18, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Chairman Gaskins absent and not participating. Vice Chairman Gresham not participating. Commission Clapp absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix—Fuel Surcharge

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

July 14, 1980 ..... 114.1¢

	Transportation performed by—			
	Owner operators [1] (1)	Other [2] (2)	Bus carriers (3)	UPS (4)
Average percent: Fuel expenses (including taxes) of total revenue..	16.9	2.9	6.3	3.3
Percent surcharge developed.....	13.5	2.3	5.0	[3] 2.1
Percent surcharge allowed	13.0	2.3	5.0	[4] 1.3

[1] Apply to all truckload rated traffic.

[2] Including less-than-truckload traffic.

[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to the UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[4] The developed surcharge figure is reduced 0.8 percent to reflect fuel related increases already included in UPS rates.

[FR Doc 80-21739 Filed 7-19-80; 8:45 am]

BILLING CODE 7035-01-M

Long and Short-Haul Applications for Relief (Formerly Fourth Section Application)

July 16, 1980.

These applications for long-and-short-haul or aggregate-of-intermediates relief have been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

Long and Short-Haul

No. 43841, Southwestern Freight Bureau, Agent's No. B-74, rates on carbon tetrachloride, ethylene dichloride, methylene chloride and other articles, in tank carloads, from Lake Charles, Plaquemine, Taft, West Lake Charles, LA; Freeport, Houston, Port Neches and Texas City, TX. Rates are published to become effective August 13, 1980 in Supplement 137 to ICC SWFB 3038-E and Supplement 459 to ICC SWFB 3354-C. Grounds for relief—market competition.

Aggregate-of-Intermediates

No. 43842, Southwestern Freight Bureau, Agent's No. B-75, rates on carbon tetrachloride, ethylene dichloride, methylene chloride and other articles, in tank carloads, from Lake Charles, Plaquemine, Taft, West Lake Charles, LA; Freeport, Houston, Port Neches and Texas City, TX. Rates are published to become effective August 13, 1980 in Supplement 137 to ICC SWFB 3038-E and Supplement 459 to ICC SWFB 3354-C. Grounds for relief—maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21737 Filed 7-19-80; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

July 16, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C. Expedited handling of the application has been granted.

No. 43843, Western Trunk Line Committee, Agent (No. A-2764), reduced rates on soda ash, in bulk, in covered hoppers, from Alchem, Stauffer, TG-Soda and Westvaco, WY, to LaSalle, IL. Rates to be published in Item 6040 series to its Tariff ICC WTL 3120-L. Grounds for relief—market competition. Due to an emergency situation, applicant proposes to publish the schedule on not less than 5 days' notice under Special Permission No. 79-2300, as amended. Protests to grant of long-and-short-haul relief are due at the offices of the Commission, Suspension Board, Washington, DC, not later than noon, July 25, 1980. Telegraphic filing with indication of notarization is acceptable.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21738 Filed 7-19-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

Important Notice

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with 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 Regional Office 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 ICC Regional Office to which protests are to be tramsmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. F-41]

THE FOLLOWING APPLICATIONS WERE FILED IN REGION I. SEND PROTESTS TO REGIONAL AUTHORITY CENTER, INTERSTATE COMMERCE COMMISSION, 150 CAUSWAY ST.—RM. 501, BOSTON, MA 02114.

MC 141533 (Sub-1-7TA), filed July 9, 1980. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue,

Elmsford, NY 10532. Representative: Bruce J. Robbins, Esq., Robbins & Newman, P.C., 118–21 Queens Boulevard, Forest Hills, NY 11375. *Common carrier,* irregular routes, *such commodities as are dealt in or used by chain grocery stores and food business houses* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in Brown County, WI, on the one hand, and, on the other, points in the States of CT, DE, NJ, NY (except points in the New York, NY Commercial Zone), OH, PA and WV. There are approximately four shipper statements which are available for inspection at the Boston office of the Interstate Commerce Commission.

MC 123408 (Sub-1–3TA), filed July 11, 1980. Applicant: FOOD HAULERS, INC., 600 York Street, Elizabeth, New Jersey 07207. Representative: Philip J. Harter, 1101 Connecticut Avenue, N.W., Washington, D.C. 20036. *Contract carrier:* irregular routes. *Such merchandise as is dealt in by wholesale, retail and chain grocery stores and, in connection therewith, equipment, supplies and materials used to conduct such business* between all points in AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VT, WA, WI, WY and the facilities of Wakefern Food Corporation at Elizabeth, NJ, Edison, NJ, and Wallkill, NY. Supporting shipper: Wakefern Food Corporation, 600 York Street, Elizabeth, NJ 07207.

MC 151239 (Sub-1–1TA), filed July 10, 1980. Applicant: HILL LEASING CORPORATION, 76 Sellers Road, Kearny NJ 07032. Representative: Arthur Liberstein, Esq., 888 Seventh Avenue, New York, N.Y. 10106. *Contract carrier:* irregular route: *Such commodities as are dealt in or distributed by pharmaceutical houses and materials, supplies and equipment used in the manufacture and distribution thereof, except, commodities in bulk,* between Norwich and North Norwich, NY on the one hand, and, on the other, points and places in the New York, NY Commerical Zone and the Counties of Morris, Sussex, Warren, Hunterdon, Somerset, Mercer, Middlesex, Monmouth and Passaic, NJ. Supporting shipper: Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich.

MC 59655 (Sub-1–3TA), filed July 10, 1980. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Liquors, malt and cereal beverages, and such commodities as are used in the manufacture, distribution, and sale of liquors, malt and cereal beverages, and related products (except commodities in bulk in tank vehicles),* Between the facilities used or utilized by or of Stroh Brewery Company, on the one hand, and, on the other, points in the US east of and including the states of MN, IA, MO, AR, and LA. Supporting shipper(s): The Stroh Brewery Company, One Stroh Drive, Detroit, MI 48226.

MC 113843 (Sub-1–9TA), filed July 10, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils, 316 Summer Street, Boston, MA 02210. *Office furniture, filing cases, office supplies, materials and supplies used in the manufacture of office furniture,* from Florence, Kentucky to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, and DC. Supporting shipper: Hunt Manufacturing Co., Florence, KY.

MC 115353 (Sub-1–3TA), filed July 10, 1980. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract;* Irregular; (1) *reinforced concrete pressure pipe, fittings, and tools and accessories used in the installation thereof;* (2) *materials, supplies and equipment used in the manufacture and distibution of commodities in (1) (except in bulk),* between Perryman, MD, on the one hand, and, on the other, points in NY, NJ, PA, CT, RI, MA, NH, VT, ME, VA, WV, DE, and DC. Supporting shipper: Interpace Corporation, P.O. Box A, Wharton, NJ 07885.

MC 145108 (Sub-1–6TA), filed July 10, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Bakery supply products and foodstuffs, in mechanically refrigerated equipment,* (1) from Wheeling, WV, to points in TN; and (2) from Chicago, IL, to points in OH and FL. Supporting shipper(s): J. W. Allen, 555 Allendale Drive, Wheeling IL 60090.

MC 145108 (Sub-1–7TA), filed July 10, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Bakery goods and materials, equipment, and supplies used in the manufacture and sale of Bakery Goods (except commodities in bulk),* between Compton, CA, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper(s): Pogens Family Bakery Inc., 1800 South Anderson Avenue, Compton, CA 90220.

MC 145829 (Sub-1–7TA), filed July 10, 1980. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Household cleaning products, bleaches, and cleaning compounds, and materials, equipment, and supplies used in the manufacture, sale, or distribution of the foregoing commodities (except in bulk),* between Burlington, NJ, on the one hand, and, on the other, points in CT, MD, MA, NJ, NY, PA, RI, VA, and DC, for 270 days. Supporting shipper(s): Purex Corporation, Ltd., Radcliffe Street, Bristol, PA.

MC 126693 (Sub-1–1TA), filed July 10, 1980. Applicant: NEWARK INDUSTRIAL SUPPLY, a corporation, 409 Wallingford Terrace, Union, NJ 07983. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. *Steel studs and steel track,* from the facilities of Evon Industries, Inc., at Newark, NJ, to points in CT, DE, ME, MD, MA, NH, NY, NC, PA, RI, VT, VA, and DC.

MC 71593 (Sub-1–11TA), filed July 10, 1980. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, New Jersey 07076. Representative: David W. Swenson, 1608 E. Second Street, Scotch Plains, New Jersey 07076. *Ammonia and ammonia cleaning compounds,* from the facilities of Armour-Dial, Inc. at Stockton, CA to points in OR.

MC 135684 (Sub-1–1TA), filed July 10, 1980. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, NJ 08822. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. (1) *Chemicals, plastics, paint colorants, lubricants, and materials, supplies, and equipment used in the manufacturing and distribution thereof (except in bulk)* between points in MD, MA, OH, and NJ, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, TX, WA, and WY; and (2) *plastics (except in bulk)* from Pasadena, TX to points in CA, CT, DE, IL, IN, IA, KY, MA, NH, NY, OH, PA, RI, TN, and VT. Supporting shipper: Tenneco Chemicals, Inc., P.O. Box 367, Piscataway, NJ 08854.

MC 151013 (Sub-1–6), filed July 9, 1980. Applicant: J.T.L., INC., 49 Rosedale Street, Providence, RI 20903. Representative: Ronald N. Cobert, Esquire, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Contract carrier; irregular routes. (1) *Machinery,*

equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe line, including the stringing and picking up thereof, between the facilities utilized by R & R Supply Company, at or near Lafayette, Lake Charles and Monroe, LA, and Houston and Wichita Falls, TX, on the one hand, and, on the other, points in KS, NM, OK, and TX. Restriction: The operations authorized above are limited to a transportation service to be performed under a continuing contract or contracts with R & R Supply Company. Supporting shipper: R & R Supply Company.

MC 144407 (Sub-1–3TA), filed July 9, 1980. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 96 Route 23, Riverdale, NJ 07457. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Covered copper wire, flourescent lamp ballasts, and materials, equipment, and supplies used in the manufacture and distribution thereof, (except commodities in bulk),* Between Blytheville, AR; Bridgeport, CT; Gallman and Mendenhall, MS; and Paterson and Totowa, NJ, on the one hand, and, on the other, points in the states of CO, GA, IL, IN, KY, MI, MS, MO, OH, PA, TN, WA, and WI. Supporting shipper(s): Universal Manufacturing Corporation, 29–51 East Sixth St., Paterson, NJ 07509.

MC 145108 (Sub-1–5TA), filed July 9, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Hospital Supplies,* from Northbrook, IL, to Atlanta, GA; Pittsburgh, PA; Minneapolis, MN; Brookside, DE; Richmond, VA; Houston, TX; Tampa, FL; and Cleveland, OH. Supporting shipper: Medline Industries, Inc., 1825 Shermer Road, Northbrook, IL 60062.

MC 123408 (Sub-1–2TA), filed July 9, 1980. Applicant: FOOD HAULERS, INC., 600 York Street, Elizabeth, New Jersey 07207. Representative: Philip J. Harter, 1101 Connecticut Avenue, N.W., Washington, DC 20036. Contract carrier: irregular routes. *Personal care products, bakery products, pharmaceutical products, chewing gum, cough drops, and candies and materials, equipment and supplies used in the manufacture and distribution thereof, except commodities in bulk,* between all points in the United States (except AK and HI) and restricted to traffic originating at or destined to the facilities of Warner Lambert Company, its affiliates, subsidiaries and divisions. Supporting shipper: Warner Lambert Company, Morris Plains, NJ 07950.

MC 126545 (Sub-1–2TA), filed July 8, 1980. Applicant: GLENERY, INC., 173 Hickory Street, Kearny, NJ 07032. Representative: William J. Augello, Esq., Augello, Pezold & Hirschmann, P.C., 120 Main Street, P.O. Box Z, Huntington, NY 11743. *Contract carrier,* irregular routes: *Paper Products,* from Sprague, CT to Commercial Zone of New York, NY. Supporting shipper: Unsworth & Co., Inc., Linden, NJ.

MC 140768 (Sub-1–8TA), filed July 8, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Terminals, hardware, assemblies, sub assemblies, and parts and supplies used in the manufacture of computer terminals, assemblies and keyboards (except commodities in bulk),* from points in FL, IL, IN and MI, to the facilities utilized by Burroughs Corporation, Terminal Systems Group located in Somerset, Middlesex and Hunterdon Counties, NJ, and New York, NY and points in the commercial zone thereof. Supporting shipper(s): Burroughs Corporation, Terminal Systems Group, 35 Elizabeth Avenue, Somerset, NJ 08873.

MC 22988 (Sub-1–2TA), filed July 8, 1980. Applicant: K. G. MOORE, INC., 9 Park Avenue, Hudson, NH 03051. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. (1) *Telephone equipment,* and (2) *material and supplies used in the construction and maintenance of telephone systems,* (a) between Watertown, MA and Orange, CT, on the one hand, and, on the other, Bridgeport, WV and (b) between Southboro and Watertown, MA, on the one hand, and on the other, Montpelier, VT. Supporting shipper: Western Electric Co., Inc., 1600 Osgood Street, North Andover, MA 01845.

MC 151185 (Sub-1–1TA), filed July 1, 1980. Applicant: KENNETH R. MEADOWS, d.b.a. KWIKI EXPRESS, 114A Massachusetts Avenue, Arlington, MA 02174. Applicant's representative: Edwin P. Whittemore, Esq., 15 Somerset Road, Lexington, MA 02173. *General commodities,* except household goods as defined by the Commission, commodities in bulk, those injurious or contaminating to other lading, dangerous explosives, those requiring special equipment, those of unusual value and those requiring refrigeration, between Logan International Airport, Boston, MA, on the one hand, and, on the other, Dover, NH and Portland, ME. Restricted to shipments having prior or subsequent transportation by air, and also from and between all points in MA, ME, CT, NH, VT and RI. There are fourteen (14) supporting shippers.

MC 150177 (Sub-1–2TA), filed July 8, 1980. Applicant: CONATSER TRUCKING, INC., 57 Berkshire Terrace, Amherst, MA. 01002. Applicant's representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. *Contract carrier,* irregular routes (1) Malt beverages and such commodities as are dealt in or used by distributors of malt beverages (except commodities in bulk) and (2) Rejects and return of empty malt beverages containers. From: Schoenling Brewing Co., Cincinnati, Ohio. To points In: ME, NH, VT, MA, CT, RI, NY, NJ, MD, DE, DC, VA, NC, SC, GA, AL, MS, TN, KY, PA, OH, MI, IN, IL, MO, WV, KS, OK, and TX. Supporting shipper: Schoenling Brewing Co., Central Parkway, Cincinnati, OH.

MC 90511 (Sub-1–1TA), filed July 8, 1980. Applicant: CONSTABLE TRANSPORT LIMITED, P.O. Box 248, Thorold, Ontario, Canada L2V 3Y9. Applicant's representative: Robert D. Gunderman, Esq., 710 Statler Building, Buffalo, NY 14202. *Paper, waste or scrap,* between ports of entry on the International Boundary line between the U.S. and Canada in NY and MI, on the one hand, and, on the other, points in CT, DE, DC, GA, IL, IN, IO, KY, ME, MD, MA, MI, NJ, NY, OH, PA, TN, VA, WV, and WI. Supporting shippers: Kimberly-Clark of Canada Limited, 2 Carlton Street, Suite 1200, Toronto, Ontario, M5B 1J8; The Beaver Wood Fibre Company Limited, Allanburg Road, Thorold, Ontario L2V 3Z8; Great Lakes Paper Fibres Corp., 442 Ohio Street, Buffalo, NY. 14240

MC 148855 (Sub-1–1TA), filed July 8, 1980. Applicant: J. C. BROCK CORP., 95 Kentucky Street, Buffalo, NY 14202. Applicant's representative: Robert D. Gunderman, Esq., Suite 710 Statler Building, Buffalo, NY 14202. *Bananas and exempt agricultural commodities when moving in mixed loads with bananas,* from New York, NY; Newark, NJ; and Philadelphia, PA, to points in NY on and west of Interstate Highway 81. Supporting shipper: Castle & Cooke Foods, 300 Motor Parkway, Suite 410, Huppage, NY 11787.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 2. SEND PROTESTS TO: ICC FEDERAL

RESERVE BANK BLDG., 101 N. 7TH ST., ROOM 620, PHILADELPHIA, PA 19106.

MC 127030 (Sub-II–1TA), filed July 3, 1980. Applicant: MATTHEW J. DEPALMA, INC., 1700 Orthodox St., Phila., PA 19124. Representative: Leonard W. Becker (same address as applicant). *Coal, in bulk, in dump vehicles,* from points in Lackawanna and Luzerne Counties, PA to Port Newark, NJ and Poughkeepsie, NY, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: United Young, Inc., 1225 Broadway, New York, NY.

MC 102616 (Sub-II–12TA), filed July 3, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: W. M. Kiefaber (same address as applicant). *Acrylonitrile Butadine Styrene (ABS), in bulk, in tank or hopper-type vehicles,* from the facilities of United States Steel Corp. at or near Haverhill, Scioto County, OH to points in the U.S. (except AK and HI) and returned and rejected shipments from the above-named destination territory to the above-named origin point, for 270 days. Supporting shipper: United States Steel Corp., 600 Grant St., Pittsburgh, PA 15230.

MC 146820 (Sub-II–4TA), filed July 3, 1980. Applicant: B & G TRUCKING, INC., P.O. Box 581, Worthington, OH 43085. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Contract; irregular: (1) *paper, paper products and plastic articles;* and (2) *materials and supplies used in the manufacture and distribution of paper, paper products and plastic articles (except commodities in bulk)* between points in IL, IN, KY, MI, MO, MS, NY, OH, PA, TN, VA, WV, and WI for the account of The Continental Group, Inc., Continental Forest Industries, for 270 days. Restricted to traffic originating at or destined to the facilities of The Continental Group, Inc., Continental Forest Industries. Supporting shipper: The Continental Group, Inc., Continental Forest Industries, Office Pard II, Greenwich, CT 06830.

MC 136077 (Sub-II–1TA), filed May 13, 1980. Applicant: REBER CORP., 2216 Old Arch Rd., Norristown, PA 19401. Representative: Sheri B. Friedman, 1600 Land Itle Bldg., 100 S. Broad St., Philadelphia, PA 19110. *Limestone,* from the plant of White Pigment Corp. at West Manchester Twp., York County, PA to points in DE, MD, OH, NY, NJ, VA and WV, for 180 days. Applicant will tack authority in MC–136077 Sub No. 21TA. An underlying ETA seeks 90 days authority. Supporting shipper: White Pigment Corp., R.D. Florence, VT 05744.

MC 125023 (Sub-II–1TA), filed June 5, 1980. Applicant: SIGMA–4 EXPRESS, INC., 3825 Beech Ave., (P.O. Box 9117), Erie, PA 16504. Representative: Richard G. McCurdy (same address as applicant). *Malt beverages, in containers, and materials, equipment and supplies (except commodities in bulk),* (1) between the facilities of Pabst Brewing Co. at or near Houston County, GA, Milwaukee, WI, Newark, NJ, and Peoria Heights, IL, (2) between the facilities of Pabst Brewing Co. named in (1) above, on the one hand, and points in DE, GA, IN, IL, KY, MD, MI (except the upper peninsula), NC, NJ, NY, OH, PA, SC, TN, VA, WI, WV, and DC. (Except between Milwaukee, WI and MI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Pabst Brewing Co., 917 West Juneau Ave., Milwaukee, WI 53201.

MC 102616 (Sub-II–13TA), filed July 7, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: W. M. Kiefaber (same address as applicant). *Petroleum and petroleum products, in bulk, in tank vehicles,* from Cleveland, OH to points in GA, KY, SC, and TN, for 270 days. Supporting shipper: Witco Chemical Corp., Bradford, PA 16701.

MC 70269 (Sub-II–4TA), filed July 7, 1980. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030—15th St., N.W., Washington, DC 20005. *Meats, meat products, meat byproducts and articles distributed by meat packing houses,* from Jarratt, VA to points in MA, CT, DC, RI, NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL, AL, TN, KY, WV, and OH. An underlying ETA seeks 120 days authority. Supporting shipper: Old Dominion Beef, Inc., Jarratt, VA 23867.

MC 150511 (Sub-II–3TA), filed July 7, 1980. Applicant: BETTER HOME DELIVERIES, INC., 3700 Park East Dr., Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. *Contract,* irregular: *Such merchandise as is dealt in by retail department stores, restricted to residential deliveries,* between Bridgeport, NJ, on the one hand, and, on the other, points in MD, under a continuing contract or contracts with Bamberger's Div. of R. H. Macy & Co., Inc., for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bamberger's, A Div. of R. H. Macy & Co., 131 Market St., Newark, NJ 07101.

MC 104978 (Sub-II–4TA), filed June 30, 1980. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, Gay Rd., North East, PA 16428. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. *Paper and paper products,* from Erie and Lock Haven, PA and Oswego, NY to points in CT, DE, IL, IN, KY, ME, MA, MD, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hammermill Paper Co., Box 1440—1540 E. Lake Rd., Erie, PA 16533.

MC 116763(Sub-19TA), filed June 30, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). Authority applied for: *Animal Feed and pet foods* (except commodities in bulk, in tank vehicles), from points in Lehigh Co., PA to points in CT, RI, ME and VT, for 180 days. Restricted to traffic originating at the named origin and destined to the indicated destinations. Supporting shipper: Calo Pet Foods, Inc., I–19 Hamilton St., P.O. Box 478, Allentown, PA 18105.

ICC MC 148414(Sub-1TA), filed June 30, 1980. Applicant: UNIDYNE CORPORATION, 3835 E. Princess Anne Rd., Norfolk, VA 23502. Representative: Dale E. Forwood (same as applicant). *Contract carrier—irregular routes: Glass fibre, rovings, strand, mat, yarn, fabric, waste and materials and supplies used in the manufacture and distribution of the aforementioned commodities;* and *Glass Fibre reinforced rigid Polypropyline sheets,* from the plant sites of PPG Industries, Inc., at or near South Lexington and West Shelby, North Carolina, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, and return, for 180 days. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 136511(Sub-II–2TA), filed July 1, 1980. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW, Washington, DC 20001. *New furniture and furniture parts,* from points in MS, VA, NC, and SC to points in MA, CT, NY, NJ, PA, MD, VA, DE, GA, FL, TN, OH, IN, KS, MN, MO, IL, TX, CO, OK, AZ, CA, WA, OR and UT, restricted to traffic destined to the facilities of Levitz Furniture Corp for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Levitz Furniture Corp., 1317 N.W. 167th St., Miami, FL 33169.

MC 21866(Sub-2–24TA), filed July 2, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative:

Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Automotive parts, accessories and supplies,* (1) between the facilities of Chrysler Corporation, service and parts division at Cleveland, OH, Newark, DE, Richmond, VA and points in MI. (2) Between the facilities of Chrysler Corporation, service and parts division at points in MI, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA and VA, for 180 days. An underlying ETA seeks 90 days authority. Restriction: Restricted in (2) above, to the transportation of traffic having a prior or subsequent movement by water. Supporting shipper: Chrysler Corp., Service and Parts Div., 26311 Laurence Ave., Center Line, MI 48015.

MC 146320(Sub-II–2TA), filed June 30, 1980. Applicant: CHARLES A. STOECKLER, INC., 3 Spring St., Wilkes Barre, PA 18702. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *(1) Paper stationery supplies (2) Materials and supplies* used in the manufacture sale and distribution of paper stationery supplies, (1) from Berwick, PA to NY, CT, VT, MA, NJ, OH, IL, MD, VA and DC (2) Commodities described in (1) above on return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Datacom, Inc., Old Berwick Rd., Berwick, PA 18603.

MC 113406 (Sub-II–1TA), filed July 7, 1980. Applicant: DOT LINES, INC., 1000 Findlay Rd., Lima, OH 45802. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. (1) *Auto parts and (2) equipment, materials, and supplies used in the manufacture of the items named in (1) above (except commodities in bulk),* between the facilities of Ford Motor Co. at Lima, OH, on the one hand, and, on the other, Commercial Zone of Detroit, MI, for 270 days. Supporting shipper: Ford Motor Co., One Parkland Blvd., Parkland Towers E., Dearborn, MI 48126.

MC 99408 (Sub-II–1TA), filed July 7, 1980. Applicant: CITY DELIVERY SERVICE, INC., 1 Passan Dr., Laflin Borough, PA 18702. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *General Commodities (except Classes A and B Explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between the facilities of Valley Dist. & Stg. Co. at or near Scranton and Wilkes Barre, PA on the one hand, and, on the other, NJ, IL and MD. Restriction: Restricted to transportation originating at or destined to Valley Dist. & Stg. Co. for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Dist. & Storage Co., 1 Passan Dr., Laflin Borough, PA 18702.

MC 94265 (Sub-II–15TA), filed July 7, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305—Rt. 460 W., Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs* from the facilities utilized by Seabrook Foods, Inc. at or near Alamo and Brownsville, TX to the facilities utilized by Seabrook Foods, Inc. at points in GA for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Seabrook Foods, Inc., 111 N. 7th St., Alamo, TX 78516.

MC 114312 (Sub-II–1TA), filed July 7, 1980. Applicant: ABBOTT TRUCKING, INC., Route 3, Box 74, Delta, OH 43515. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Animal feed,* from Richmond, IN to MI and OH, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Scientific Animal Feeds, Inc., 401 W. Golf Rd., Arlington Hts., IL 60005.

MC 118899 (Sub-II–7TA), filed July 9, 1980. Applicant: BALTIMORE TANK LINES, INC., 180 Eighth Ave., Glen Burnie, MD 21061. Representative: Lawrence E. Lindeman, 425 13th St., N.W., Suite 1032, Washington, DC 20004. *Alcohol, in bulk, in tank vehicles,* from Elizabeth, NJ to points in MD and DC and its commercial zone, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fannon Petroleum Co., 1200 Duke St., Alexandria, VA 22314.

MC 119821 (Sub-II–2TA), filed July 7, 1980. Applicant: OCHROCH TRANSPORTATION CO., INC., Second St. & Erie Ave., Philadelphia, PA 19140. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. (1) *Unprinted paper, flat, on skids and in rolls,* from Philadelphia, PA to Baltimore, Cambridge, Chestertown, Frederick, Hagerstown and Salisbury, MD; Fredericksburg, VA; and Washington, DC commercial zone; and, (2) *Unprinted paper,* from Fredericksburg, VA to Chalfont, PA; and New York, NY commercial zone for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roosevelt Paper Co., 7601 State Rd., Philadelphia, PA 19136; Cellu-Pak Converters, Inc., P.O. Box 51, Chalfont, PA 18914.

MC 150339 (Sub-2–6TA), filed July 7, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). *Contract;* irregular; *Foodstuffs,* from Elgin, IL, Detroit, MI, and Greenville, SC to points in CT, DE, IL, IN, ME, MD, MA, MI, NJ, NY, NC, OH, PA, RI, SC, VA, WI, and DC, under a continuing contract with Shedd's Foods Products, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shedd's Food Products, 14401 Dexter Blvd., Detroit, MI 48238.

MC 151213 (Sub-II–1TA), filed July 7, 1980. Applicant: S. KENNETH PUCKETT, 8638 Hayshed Lane, Columbia, MD 21045. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Department store merchandise and supplies,* between Altavista, Lynchburg and Martinsville, VA, and points in NC for 270 days. Applicant intends to interline at High Point, Lexington, Hickory, Lenoir and Hildebran, NC. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gulf Freight Association, 3520 Adamo Dr., Tampa, FL 33605.

MC 105886 (Sub-II–1TA), filed July 8, 1980. Applicant: MARTIN TRUCKING, INC., East Poland Ave., Bessemer, PA 16112. Representative: Henry M. Wicks, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. (1) *Remelt alloy pigs,* from the facilities of International Metals Reclamation Co., Division of International Nickel, at or near Ellwood City, PA, and points within five (5) miles thereof to the facilities of Carpenter Technology at Bridgeport, CT; and (2) *Flue dust,* from the facilities of Carpenter Technology of Bridgeport, CT to the facilities of International Metals Reclamation Co., Division of International Nickel, or near Ellwood City, PA for 270 days. Supporting shipper: The International Metals Reclamation Co., Inc., P.O. Box 720, Route 488, Industrial Park, Ellwood City, PA 16117.

MC 145838 (Sub-II–1TA), filed July 3, 1980. Applicant: OHIO CONTAINER SERVICE, INC., 2701 Lakeside Ave., Cleveland, OH 44114. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. *Synthetic fiber yarn and materials, equipment, and supplies used in the manufacture and distribution thereof (except commodities in bulk)* between the facilities of IRC Fibers Co., Painesville, OH, on the one hand, and, on the other, points in AL, GA, KY, NJ, NC, PA, SC, TN, and VA for 270 days. Supporting shipper(s): IRC Fibers Co., c/o American Cyanamid Co., Wayne, NJ 07470.

MC 1824 (Sub-2–11TA), filed July 3, 1980. Applicant: PRESTON TRUCKING CO., INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry (same address as applicant). *Foodstuffs, in vehicles equipped with mechanical refrigeration,* from Easton, MD to

Miami, FL, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Coastal International, Inc., P.O. Box 206, Easton, MD 21601.

MC 117344 (Sub-II-3TA), filed July 7, 1980. Applicant: THE MAXWELL CO., 10300 Evendale Dr., Cincinnati, OH 45241. Representative: John C. Spencer (same address as applicant). *Acrylonitrile Butadiene Styrene (ABS), in bulk, in tank or hopper type vehicle,* from the facilities of U.S. Steel Corp. at or near Haverhill, Scioto County, OH to points in US (except AK and HI). Supporting shipper: U.S. Steel Corp., 600 Grant St., Pittsburgh, PA 15230.

MC 107012 (Sub-II-56TA), filed July 7, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *Television picture tubes* from the facilities of Zenith Radio Corp. at or near Melrose Park and Northlake, IL to Greeneville, TN for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Zenith Radio Corp., 1900 N. Austin Ave., Chicago, IL 60639.

Note.—Common control may be involved.

MC 107012 (Sub-II-60TA), filed July 9, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Institutional furniture and parts and accessories for institutional furniture* between Broken Arrow, OK; Tulsa OK; Oklahoma City, OK; and Bedford, TX on the one hand, and, on the other, points in the U.S. (except AK and HI) for 180 days. Restriction: To traffic originating at or destined to the facilities of Diversified Medical, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Diversified Medical, Inc., 2902 East 74 Place, Tulsa, OK 74136.

Note.—Common control may be involved.

MC 107012 (Sub-II-57TA), filed July 9, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). (1) *Personal computer systems, cartoned;* (2) *parts and accessories used in the manufacture and distribution of (1) above, cartoned;* and (3) *materials, equipment and supplies used in the manufacture and distribution of (1) and (2) above,* between points in the U.S. (except AK and HI) for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Apple Computer, Inc., 10260 Bandley Dr., Cupertino, CA 95014.

Note.—Common control may be involved.

MC 107012 (Sub-II-59TA), filed July 9, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Bakery goods, foodstuffs and nuts* from the facilites of Nabisco, Inc. at or near Houston, TX to points in IL, IA, IN, KS, MI, MN, MO, NE, ND, OH, SD, WI, NY, NJ, CT, DE, ME, MD, MA, PA, RI, and VT for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nabisco, Inc., East Hanover, NJ 07936.

Note.—Common control may be involved.

MC 107012 (Sub-II-58TA), filed July 9, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Hunting decoys, hunting and camping products and accessories,* from Henryetta, OK to points in the United States (except AK and HI) for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: G & H Decoy, Inc., P.O. Box 937, Henryetta, OK 74437.

Note.—Common control may be involved.

MC 89700 (Sub-II-1TA), filed July 7, 1980. Applicant: PLANES MOVING & STORAGE, INC., 4347 Indeco Ct., Cincinnati, OH 45241. Representative: Richard D. Mathias, 1100 Connecticut Ave., NW, Washington, DC 20036. *Household goods as defined by the Commission,* (1) between Hamilton, OH, and Boone, Campbell and Kenton Counties, KY, on the one hand, and, on the other, AL, AR, GA, IA, MD, MS, NY, NC, PA, SC, VA, DC, WI. (2) Between Butler, Warren, Clermont Counties, OH, on the one hand, and, on the other, AL, AR, GA, IL, IN, IA, KY, MD, MI, MS, MO, NY, NC, OH, PA, SC, TN, VA, DC, WV, WI, for 270 days. Supporting shipper: United States Shoe Corp., 1658 Herald Ave., Cincinnati, OH 45212.

MC 1824 (Sub-2-10TA), filed July 3, 1980. Applicant: PRESTON TRUCKING CO., 151 Eastern Blvd., Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 700 World Center Bldg., 918 16th St., NW, Washington, DC 20006. *Common; regular: General commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* (1) between Hagerstown, MD and Wytherville, VA, over Interstate Hwy 81, serving all intermediate points, and serving those points in VA on and bounded by a line beginning at the DC-VA State line and extending along US Hwy 29 to the VA-NC State line, then west over the VA-NC State line to junction Interstate Hwy 77, then north along Interstate Hwy 77 to the VA-WV State line, then east along the VA State line to point of beginning; and (2) between Washington, DC, and Danville, VA, over US Hwy 29, serving all intermediate points and serving the off-route points described in (1) above, and points within 10 miles of US Hwy 29, east of US Hwy 29. Applicant intends to tack authority sought with authority held under Docket MC 1824 and all subs thereunder. Applicant intends to interline with present connecting carriers at authorized points including but not limited to Baltimore, MD, Landover, MD, Philadelphia, PA and Norfolk, VA. Supporting shipper(s): There are approximately 75 supporting shippers. Their statements may be examined at the ICC Regional Office in Philadelphia, PA.

MC 125335 (Sub-2-13TA), filed July 1, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs,* from the facilities of The Pillsbury Company, at or near Terre Haute, IN, and Springfield, IL, to Mechanicsburg, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Pillsbury Company, 608 Avenue South, Minneapolis, MN 55402.

MC 99896 (Sub-II-1TA), filed July 2, 1980. Applicant: THE KINNISON TRUCKING COMPANY, 1475 W. River Rd., Dayton, OH 45418. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Printing paper and scrap paper,* between points in Montgomery Co., OH on the one hand, and, on the other, Crawfordsville and Indianapolis, IN, restricted to traffic moving from or to the facilities of Miami Paper Co., for 180 days. Supporting shipper: Miami Paper Co., Smith Rd., West Carrollton, OH 45449.

MC 5649 (Sub-2-1TA), filed July 1, 1980. Applicant: KULP & GORDON, INC., P.O. Box 628, Phoenixville, PA 19460. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Concrete products,* from the facilities of A. C. Miller Concrete Products, Inc., located in Chester County, PA, to points in CT, DE, MA, MD, NJ, NY, RI, VA, VT, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: A. C. Miller Concrete Products, Inc., Rte. 29, Devault, PA 19432.

MC 150710 (Sub-II-2), filed July 7, 1980. Applicant: LEBARNOLD, INC., 625 S. 5th Avenue, P.O. Box 630, Lebanon, PA 17042. Representative: Richard A.

Mehley, 1000—16th Street, NW., Suite 502, Washington, DC 20036. Contract, irregular—*Manufactured steel products, and materials parts and equipment used in the manufacture and distribution thereof,* between Aurora, IL and Tatamy, PA, for 180 days, under a continuing contract with Equipto. An underlying ETA seeks 90 days authority. Supporting shipper: Equipto, 225 S. Highland Avenue, Aurora, IL 60507.

MC 115703 (Sub-II–4TA), filed July 9, 1980. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 6331, Wyomissing, PA 19610. Representative: Bernard L. Quaglia (same as applicant). *Stainless steel, steel, titanium plates and/or bars,* between the facilities of G. O. Carlson, Inc. in Coatesville or Downingtown, PA on the one hand, and, on the other, points in AL, CT, FL, GA, IL, IN, IA, KY, LA, MD, MA, MI, MS, MO, NJ, NY, NC, OH, SC, TN, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: G. O. Carlson, Inc., 108 Marshalton Rd., Thorndale, PA 19372.

MC 78118 (Sub-II–1TA), filed July 7, 1980. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, PA 17602. Representative: Cristian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Paper and paper products,* from Erie and Lock Haven, PA and Oswego, NY to points in DE, IN, KY, MD, MI, MS, NJ, NY, OH, PA, TN, WV and DC, restricted to the transportation of traffic originating at the facilities of Hammermill Paper Company, for 180 days. An Underlying ETA seeks 90 days authority. Supporting shipper(s): Hammermill Paper Company, P.O. Box 1440, Erie, PA 16533.

MC 151218 (Sub-II–1TA), filed July 7, 1980. Applicant: H&H TRANSPORTATION, INC., 1425 E. Main St., Newark, OH 43055. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Irregular route, contract carrier: (1) hair care, toiletries, accessories and equipment, (2) toilet preparations, beauty and health products, and equipment; (3) personal and electric appliances, accessories, and parts thereof; and (4) equipment, materials, supplies and ingredients used in the packaging, sales and manufacture of the items named in (1), (2), and (3) above (except commodities in bulk)* between the plant site of Clairol Inc. at Stamford, CT, on the one hand, and, on the other, pts. in OH and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Clairol Inc., 1 Blachley Rd., Stamford, CT 06902.

MC 150240 (Sub-II–2TA), filed June 30, 1980. Applicant: FREIGHT SALES, INC., 447 James Pkwy., P.O. Box 1176, Newark, OH 43055. Representative: James R. Stiverson, 1396 W. Fifth Ave., Columbus, OH 43212. *Contract; irregular: Alcohol,* from Decatur, IL, to Newark, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Englefield Oil Co., 447 James Pkwy., Newark, OH 43055.

MC 100439 (Sub-II–3TA), filed June 30, 1980. Applicant: D.W. HASSLER, INC., R.D. No. 8, York, PA 17403. Representative: Harold G. Hernly, Jr., 110 S. Columbus St. Alexandria, VA 22314. *Lime, limestone and limestone products* from Frederick County, VA to Spring Grove, Camp Hill, Lewisburg and York, PA and points in their Commercial zones or terminal areas for 180 days. Supporting shipper: W.S. Frey Company, Inc., P.O. Box 65, Clearbrook, VA 22624.

MC 150939 (Sub-II–4TA), filed June 27, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Chemicals and plastics and materials, equipment and supplies used in the manufacture, sale and distribution of chemicals and plastics* between the facilities of Mobay Chemical Corp. in WV, PA, OH, NJ, IL, TX, CA, GA, MA, MI and SC, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Mobay Chemical Corp. of Pittsburgh, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobay Chemical Corp., Penn Lincoln Parkway West, Pittsburgh, PA 15205.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7520, Atlanta, GA 30357.

MC 151242 (Sub-3–1TA), filed July 10, 1980. Applicant: AGS & COMPANY, INCORPORATED, 1110B Beltline Rd., S.E., P.O. Box 515, Decatur, AL 35602. Representative: Aaron J. Guthrie (same as above). *Contract carrier,* irregular routes, *repossessed mobile homes,* from all points and places in TN to Mobile Home Industries' mobile home lot in Decatur, AL. Supporting shipper: Mobile Home Industries, 2205 Highway 31 South, Decatur, AL.

MC 148423 (Sub-3–5TA), filed July 9, 1980. Applicant: AVANT TRUCKING CO., INC., P.O. Box 216, Gray, GA 31032. Representative: R. Napier Murphy, 700 Home Federal Bldg., Macon, GA 31201. (1) *Pipe, water and sewer; conduit, electrical; hydrants, valves, parts and accessories therefor; and related materials and supplies used in the construction, operation, repair, servicing, maintenance and dismantling of water and sewer pipe and electrical conduit,* from the facilities of DYKA, U.S.A., INC., in Bibb County, GA, to points in AL, FL, KY, MD, MS, NC, SC, TN, VA, WV, and DC; and (2) *Materials and supplies* (except commodities in bulk) *used in the manufacture of commodities named in (1) above,* in the reverse direction. Supporting shipper: DYKA, U.S.A., INC., P.O. Box 10245, Wilson Airport, Macon, GA 31297.

MC 151241 (Sub-3–1TA), filed July 10, 1980. Applicant: AVONDALE WRECKER SERVICE, 4030 Third Avenue, South, P.O. Box 31142, Birmingham, AL 35222. Representative: Cecil Eugene Wilson (same address as applicant). *Wrecked or disabled trucks, tractors and trailers, and replacement vehicles or trailers therefor,* from points in AL to GA, FL, SC, NC, TN, KY, VA, WV, OH, MI, IL, IN, PA, MD, NY, LA, MS, TX, AR, MO, OK, KS, CO, NM, AZ and CA and return. Supporting shippers: Bowman Transportation, Inc., 1900 Vanderbilt Road, Birmingham, AL 35234; Ryder Truck Rental, Inc., 2934—3rd Avenue, North, Birmingham, AL 35203; Saunders Leasing, Inc., 6400—1st Avenue, South, Birmingham, AL 35212; and Consolidated Freightways, 3301 Powell Avenue, Birmingham, AL 35233.

MC 106074 (Sub-3–11TA), filed July 8, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Hwy 221 S., Forest City, NC 38043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Petroleum specialities and chemicals, in containers,* from Kansas City, KS to points in FL, GA, NC and SC. Supporting shipper: Interstate Oil Co., Inc., 67 Shawnee Ave., Kansas City, KS 66119.

MC 135895 (Sub-3–12TA), filed July 3, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Sta., Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *(1) plastic and metal containers, and fittings and closures therefor and (2) equipment, materials and supplies used in the manufacture, sale and distribution of the commodities described in (1) above (except commodities in bulk and those requiring special equipment)* between the facilities of Armstrong Containers, Inc. in GA, IL, LA, and TX, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, KS, KY, LA, MO, MS, NC, OK, SC, TN and TX. Supporting shipper: Armstrong Containers, Inc., 10330 Roosevelt Road, Westchester, IL 60153.

MC 108633 (Sub-3–1TA), filed July 7, 1980. Applicant: BARNES FREIGHT LINE, INC., P.O. Box 800, Carrollton, GA 30117. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Common carrier:* Regular: *General Commodities (except Classes A and B explosives, household*

goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Atlanta, GA, and Columbus, GA, from Atlanta, GA, over Interstate Hwy 85 and U.S. Hwy 29 to their junctions with Interstate Hwy 185 and U.S. Hwy 27 at or near LaGrange, GA, thence via U.S. Hwy 27 and Interstate Hwy 185 to Columbus, GA, and return over the same route, serving all intermediate points. Supporting shippers: West Point-Pepperell, Inc., P.O. Box 71, West Point, GA 31833; P&W Electric Supply Co., 1443 6th Ave., Columbus, GA; Signs, Inc., 4306 Hamilton Rd., Columbus, GA; Columbus Mills, Inc., 4500 River Rd., Columbus, GA; Columbus Foundries, Inc., 1600 Northside Ind. Blvd., Columbus, GA; and Douglas & Lomason Co., 420 10th Ave., Columbus, GA.

Note.—Applicant also seeks authority to join the sought authority with its present authority under Docket MC-108633 and to interline with other carriers at Atlanta, Columbus and LaGrange, GA, and all other points served by applicant where feasible. Applicant is presently authorized to provide general commodity service between Atlanta and Columbus, GA, via routes traversing Georgia and Alabama.

MC 110410 (Sub-3-2TA), filed July 11, 1980. Applicant: BENTON BROTHERS FILM EXPRESS, INC., 723 Forest Rd., N.W., Atlanta, GA 30312. Representative: H. R. Matthews, President (same address as applicant). *Instant tea,* from Plant City, FL to Atlanta, GA and Marietta, GA. Supporting shipper: Southern Tea Company, 1650 Marietta Boulevard, N.W., Atlanta, GA 30318.

MC 110410 (Sub-3-3TA), filed July 11, 1980. Applicant: BENTON BROTHERS FILM EXPRESS, INC., 723 Forest Rd., N.E., Atlanta, GA 30312. Representative: Warren A. Goff, 2008 Clark Tower, Memphis, TN 38137. *Textiles,* between points in GA, FL, and the following counties in SC: Edgefield, Saluda, Aiken, Barnwell, Allendale and Hampton. There are 14 statements of support which may be examined in the Atlanta, GA, ICC Office.

MC 150101 (Sub-3-3TA), filed April 10, 1980. Applicant: BLAZER EXPRESS, INC., Rte. 2, Pelham Rd., Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract:* irregular: *Boiler tubes,* from Lyman, SC to all points in the U.S. Supporting shipper: Boiler Tube Company of America, P.O. Drawer 517, Lyman, SC 29365.

MC 146646 (Sub-3-15TA), filed May 28, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *Store furnishings, fixtures, furniture, and materials, equipment, and supplies used in their manufacture, sale or distribution* between Terrell, TX; Los Angeles, CA and points in the states of CO, IL, IN, IA, MD, MI, MN, NJ, NY, ND, OH, PA, SD, UT, CA, SC, TX, WI, MT, NC, and NM. Supporting shipper: Maytex, Inc., P.O. Box 729, Terrell, TX 75160.

MC 150691 (Sub-3-1TA) filed July 8, 1980. Applicant: CHARLES BURKE LEASING, INC., P.O. Box 715, Maiden, NC 28650. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Passengers and their baggage,* in charter operations, between points in Alexander, Avery, Burke, Caldwell, Catawba, Lincoln, Rutherford, Watauga, and Wilkes Counties, NC, on the one hand, and, on the other, points in the U.S. (including AK but excluding HI). Supporting shipper: There are 12 supporting shippers. Their statements may be examined at the ICC Regional Office in Atlanta, GA.

MC 135315 (Sub-3-3TA), filed July 8, 1980. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 236 East Capital St., P.O. Box 22807, Jackson, MS 39205. (1) *treated and untreated forest products, lumber, posts, poles, piling, timber, cross-ties, particle boards, insulation board, insulation sheets, gypsum wallboard, plywood, laminated wood products, veneer,* and (2) *material, equipment and supplies (except commodities in bulk, in tank vehicles)* used in the production and distribution of those products listed in (1) above, between points in the United States lying in and east of ND, SD, NE, OK, and TX. *Restriction:* restricted to transportation of shipments originating at or destined to facilities of Weyerhaeuser Company, and suppliers of Weyerhaeuser Company, when making shipments for Weyerhaeuser Company and its subsidiaries. Supporting shipper: Weyerhaeuser Company, P.O. Box 2288, Columbus, MS 39701.

MC 115793 (Sub-3-1TA), filed July 10, 1980. Applicant: CALDWELL FREIGHT LINES, INC., P.O. Box 620, Lenoir, NC 28645. Representative: C. Douglas Woods (same address as applicant). *New furniture and furniture parts, and materilas and supplies used in the manufactue of furniture and furniture parts* (except materials and supplies in bulk), from Lee and Beaufort Counties, NC, to points in KY, MO and TN, and points in Caldwell and Catawba Counties, NC, for consolidation by a freight forwarder for subsequent movement in interstate commerce. Supporting shipper: Singer Furniture Company, P.O. Box 3337, Roanoke, VA 24012.

MC 138635 (Sub-3-7TA), filed July 2, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton, P.O. Box 3995, Gastonia, NC 28052. *Store Furnishings, Fixtures, Furniture, Shelving, and Materials, Equipment, and Supplies used in the manufacture, sale or distribution thereof,* between Terrell, TX, on the one hand, and, on the other, points in the states of AL, AZ, CA, DE, DC, GA, MD, NC, NJ, PA, SC, TN, and VA. Supporting shipper: Maytex Manufacturing Company, P.O. Box 729, Terrell, TX 75160.

MC 146869 (Sub-3-1TA), filed July 8, 1980. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *New Furniture,* from points in TN, NC, VA and IL to the facilities of Comet Furniture, Inc. and Apartment Furniture Rental, Inc. in the State of MI. Supporting shipper: Comet Furniture, Inc. and Apartment Furniture Rental, Inc., 25650 West Eight Mile Rd., Southfield, MI 48034.

MC 150221 (Sub-3-4TA), filed July 2, 1980. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Contract* carrier, Irregular. *Synthetic fiber yarn and staple, and nonwoven fabrics,* from Rocky Mount, NC, and Seneca, Spartanburg and Startex, SC, and points in their commercial zones, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, and VT. Supporting shipper: Phillips Fibers Corporation, P.O. Box 666, Startex, SC 29377.

MC 120616 (Sub-3-2TA), filed July 9, 1980. Applicant: A. V. DEDMON TRUCKING, INC., Hwy 150 E., Shelby, NC 28150. Representative: J. Curtis Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. *Textile products, supplies, equipment and machinery,* between Kingsport, TN, on the one hand, and Lexington, NC, and Thomasville, NC, on the other. Supporting shipper: Parkdale Mills, Inc., P.O. Box 1128, Lexington, NC 27292.

MC 144827 (Sub-3-8TA), filed July 10, 1980. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, P.O. Box 18423, Memphis, TN 38118. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *(1) Such merchandise as is*

dealt in by catalogue showroom stores and (2) Materials, equipment, fixtures and supplies used in the business of a catalogue showroom company, between points in the U.S. (except AK and HI). *Restriction:* Restricted to shipments originating at or destined to the facilities of Service Merchandise Company, Inc. Supporting shipper: Service Merchandise Co., Inc., 2968 Foster Creighton Dr., Nashville, TN 37204.

MC 138956 (Sub-3–2TA), filed July 8, 1980. Applicant: ERGON TRUCKING, INC., 202 East Pearl St., Jackson, MS 39201. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *Drilling mud and oil additives,* in packages, from the facilities of Milchem, Inc. at or near New Orleans, LA to Crossville, TN: Supporting shipper: Milchem, Inc., 640 Oil and Gas Building, 1100 Tulane Ave., New Orleans, LA 70112.

MC 138736 (Sub-3–1TA), filed April 29, 1980. Applicant: F B M TRUCKING, INC., Hwy 54 E., P.O. Box 513, Fayetteville, GA 30214. Representative: Dorothy Meatows (same as applicant). *Shears steel working machine; plate or sheet metal bending; machine parts; machine knives* from plant site of Wysong & Miles Co. at or near Greensboro, NC to plant sites of Meyer Machinery, Los Angeles, CA, Redwood City, CA, Phoenix, AZ, and Las Vegas, NV, with return shipments over the same route. Supporting shipper: Meyer Machinery Co., 2528 S. Santa Fe Ave., Los Angeles, CA 90058.

MC 103051 (Sub-3–4TA), filed July 9, 1980. Applicant: FLEET TRANSPORT COMPANY, INC., 934–44th Ave., North, P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). *Alcohol, in bulk, in tank vehicles* from Savannah, GA and Mobile, AL to points in AL, FL, GA, SC and TN. Supporting Shipper: Scientific South of Alabama, Inc., 2513 31st Street, SW, Birmingham, AL 35228.

MC 139809 (Sub-3–1TA), filed July 11, 1980. Applicant: FORBES REFRIGERATED TRANSPORT, INC., P.O. Box 7098, Wilson, NC 27893. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. *Foodstuffs* (except in bulk), from the facilities of Dinner Bell Foods, Inc., at or near Columbia, S.C., to points in NJ, NY, and CT. Supporting shipper: Dinner Bell Foods, Inc., P.O. Box 1639, Wilson, NC 27893.

MC 105120 (Sub-3–3TA), filed July 10, 1980. Applicant: FREIGHTWAYS EXPRESS, INC., 2700 Sterick Rd., Memphis, TN 38103. Representative: James N. Clay, III (same as above). *General commodities, usual exceptions,* between the facilities of American Greetings Corp. at McCrory, AR and Little Rock, AK and its commercial zone. Supporting shipper: American Greetings Corp., 10500 American Rd., Cleveland, OH 41444.

Note.—Applicant proposes to tack with existing authority and to interline with other carriers at Little Rock, AR.

MC 127634 (Sub-3–1TA), filed July 2, 1980. Applicant: GAMBRELL TRANSMOBILE, INC., 1820 Fairview Ave., Augusta, GA 20904. Representative: Nathan I. Finkelstein, 1619 New Hampshire Ave., N.W., Washington, D.C. 20009. *Mobile Homes* between points in GA, SC, FL, and AL. Supporting shippers: Harrison Mobile Homes Sales, 2049 Gordon Hwy., Augusta, GA 30909 and Colonial Mobile Homes, 1851 Gordon Hwy., Augusta, GA 30909.

MC 11220 (Sub-3–5TA), filed July 7, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between the facilities of Reinforced Plastics Division of Reichhold Chemicals, Inc., at or near Grand Junction, TN, on the one hand, and, on the other, points in AL, AR, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, OH, OK, PA, TN, TX, WI, and WV. Supporting shipper: Reinforced Plastics Division of Reichhold Chemicals, Inc., P.O. Box 7, Grand Junction, TN 38039.

MC 144011 (Sub-3–1TA), filed July 7, 1980. Applicant: HALL SYSTEMS, INC., 414 So. 10th St., Birmingham, AL 35233. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Foodstuffs* (1) from points in LA lying on and south of a line commencing at the junction of the LA state Hwy. 12 and the TX–LA State line then along LA state Hwy 12 to its junction with U.S. Hwy. 190, then along U.S. Hwy. 190 to the MS River, then north to the junction of the MS River and the LA–MS state line, then east and south along the MS–LA state line to the Gulf of Mexico, to points in AL. Applicant plans to interline at Birmingham, AL and LA. Supporting shippers: Winn-Dixie Stores, Inc., P.O. Box 2029, Montgomery, AL 36197; Graham, Bowen & Graham Food Brokerage, Inc., P.O. Box 10927; Birmingham, AL 35202; Bradford-Gilpin, Inc., P.O. Box 278, Birmingham, AL 35201.

MC 109708 (Sub-3–7TA), filed July 8, 1980. Applicant: INDIAN RIVER TRANSPORT COMPANY, INC., P.O. Box AG, Dundee, FL 33838. Representative: John J. Harned (same address as above). *Alcohol, alcoholic liquors, brandy, cordials, and wines,* in bulk in tank vehicles between (1) Bardstown, KY on the one hand, and, on the other, Fort Smith, AR, Plainfield IL, New Orleans, LA, Detroit, MI, Scobeyville, NJ, and Burlingame, CA; (2) between the International Boundary of the United States and Canada at Border crossings in the states of NY and MI on the one hand, and, on the other Fort Smith, AR, plainfield, IL, Bardstown, KY, and New Orleans, LA; (3) Between Silverton, OH on the one hand, and, on the other, Fort Smith, AR, Bardstown, KY, New Orleans, LA, and Scobeyville, NJ; (4) Between the international Boundary of the United States and Mexico at Border crossings in the state of Texas on the one hand, and, on the other, Fort Smith, AR; (5) Between points in the states of NY, PA, NJ, MD, FL, AL, and LA, on the one hand and, on the other, Fort Smith, AR, Silverton, OH, Plainfield, IL, Bardstown, KY and Scobeyville, NJ. (6) Between Roberta, GA, Auburndale and Lake Alfred, FL on the one hand, and, on the other, Fort Smith, AR; (7) Between points in CA on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, New Orleans, LA, and Bardstown, KY. Supporting shipper: Hiram Walker and Sons, Inc., P.O. Box 479, Peoria, IL 61651.

MC 146226 (Sub-3–1TA), filed July 3, 1980. Applicant: J. AND P. TRUCKING CO., INC., P.O. Box 457, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, Clearfield, PA 16830. *Corrugated boxes, liners and dividers,* from Gastonia, NC to Reserve, LA. Supporting shipper: Westvaco Corporation, P.O. Box 728, Gastonia, NC 28052.

MC 134519 (Sub-3–1TA), filed July 10, 1980. Applicant: KNOXVILLE TOURS, INC., 5833 Clinton Hwy., Knoxville, TN 37912. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. *Passengers and their baggage, in charter operations,* beginning and ending at points in Knox and Anderson Counties, TN, and extending to points in the U.S., including AK and excluding HI, restricted to transportation arranged by licensed passenger brokers. Supporting shipper: Knoxville Tours, Inc., 5833 Clinton Highway, Knoxville, TN 37912.

MC 150912 (Sub-3–3TA), filed July 7, 1980. Applicant: LONGHORN TRUCKING CO., INC., 602 Prince Road, Hendersonville, NC 28739.

Representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. *Contract* carrier: irregular: (1) *Towels and industrial linen products* from Anderson SC to Los Angeles CA; (2) *Cosmetics, toilet preparations, toilet articles, equipment and supplies used in connection therewith* from Elizabethton, TN to Walnut CA and Sparks, NV. Supporting shippers: Acme Laundry Products, Inc., 3510 South Central, Los Angeles, CA; Iodent Chemical Co., Iodent Industrial Way, Elizabethton, TN, 37643.

MC 143059 (Sub-3–13TA), filed July 8, 1980. Applicant: MERCER TRANSPORTATION, P.O. Box 35610, Louisville, KY 40232. Representative: Frederic J. Cowan, Jr., 1600 Citizens Plaza, Louisville, KY 40202. *Plastic conduit* from the facilities of Sedco Pipe Products, Inc., at or near Austin, TX to points throughout the continental U.S. (except AK and HI), restricted to the transportation of traffic originating at the named facilities and destined to the said points. Supporting shipper: Sedco Pipe Products, Inc., P.O. Box 17546, Austin TX 78744.

MC 77972 (Sub-3–1TA), filed July 8, 1980. Applicant: MERCHANTS TRUCK LINE, INC., P.O. Box 908, New Albany, MS 38652. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. (1) *Loud speakers and electrical amplification systems and* (2) *component parts and materials, equipment and supplies used in the manufacture of the commodities in (1) above (except in bulk)* between the facilities of Peavy Electronics Corporation, Meridian, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MO, NC, SC, TN and TX. Supporting shipper: Peavy Electronics Corp., P.O. Box 2898, Meridian, MS 39301.

MC 151034 (Sub-3–1TA), filed July 9, 1980. Applicant: HENRY MONTGOMERY TRUCKING, 6401 East Broadway, Tampa, FL 33619. Representative: John W. McWhirter, Jr., McWhirter & Bakas, P.A., P.O. Box 2150, Tampa, FL 33601. *Contract carrier;* Irregular routes: (1) *Empty trailers,* from Seaboard Coast Line Railroad in Tampa, FL, to the facilities of Tropicana Products, Inc. in Bradenton, FL.; and (2) *Fruit juices, citrus products, citrus by-products, non-alcoholic beverages and beverage preparations,* between the facilities of Tropicana Products, Inc. in Bradenton, FL, and the Seaboard Coast Line Railroad in Tampa, FL. Supporting shipper: Tropicana Products, Inc., P.O. Box 338, Bradenton, FL 33506.

MC 144474 (Sub-3–2TA), filed July 10, 1980. Applicant: MORGAN MOVING & STORAGE, INC., 302 North Street, Booneville, MS 38829. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1112, Washington, D.C. 20036. *Crated and uncrated new furniture (either full load or partial load),* from Tupelo, MS to all points in the U.S. Supporting shipper: Krueger Metal Products, Inc., South Green St., Tupelo, MS 38801.

MC 136384 (Sub-3–4TA), filed July 10, 1980. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Dean Forest Road, Savannah, GA 31402. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *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 commodities requiring special equipment),* (1) Between Atlanta and McRae, GA, from Atlanta over U.S. Highway 23 to McRae and return serving all intermediate points. (2) Between Vidalia and Atlanta, GA, from Vidalia over U.S. Highway 280 to Columbus, GA, thence over Alternate U.S. Highway 27 to Manchester, GA, thence over GA Highway 85 to its junction with U.S. Highway 19–41 to Atlanta and return serving all intermediate points. (3) Between Richland and Savannah, GA, from Richland over GA Highway 55 to Dawson, GA, thence over U.S. Highway 82 to its junction with U.S. Highway 17, thence over U.S. Highway 17 to Savannah and return serving all intermediate points. (4) Between Macon and Waycross, GA, from Macon over U.S. Highway 41 to Valdosta, thence over U.S. Highway 84 to Waycross and return serving all intermediate points and the off-route point of Warner Robins, GA. (5) Between McRae and Waycross, GA, from McRae over U.S. Highway 23 and 341 to Hazlehurst, thence over U.S. Highway 23 to Waycross and return, serving all intermediate points. (6) Between Macon and Columbus, GA, from Macon over U.S. Highway 80 to Columbus and return, serving all intermediate points. (7) Between Eatonton and Valdosta, GA, from Eatonton over U.S. Highway 129 to Ray City, GA, thence over GA highway 125 to Valdosta and return, serving all intermediate points. (8) Between Valdosta and Atlanta, GA, from Valdosta over Interstate 75 to Atlanta and return, for operating convenience only, serving no intermediate points. (9) Between Columbus and Atlanta, GA, from Columbus over U.S. Highway 27 to LaGrange, thence over U.S. Highway 29 to Atlanta and return, serving all intermediate points. (10) Between Albany and Bainbridge, GA, from Albany over GA Highway 91 to its junction with GA Highway 253, thence over GA Highway 253 to Bainbridge and return, serving all intermediate points. (11) Between Bainbridge and Valdosta, GA, from Bainbridge over U.S. Highway 84 to Valdosta and return serving all intermediate points. (12) Between Albany and Valdosta, GA, from Albany over GA Highway 133 to its junction with GA Highway 33 at or near Moultrie, GA, thence over GA Highway 33 to its junction with GA Highway 94, at or near New Rock Hill, GA, thence over GA Highway 94 to its junction with U.S. Highway 84, thence over U.S. Highway 84 to Valdosta and return, serving all intermediate points. (13) Between Hazlehurst and Jesup, GA, from Hazlehurst over U.S. Highway 341 and 25 to Jesup and return serving all intermediate points. NOTE: Applicant proposes to tack this authority with existing authority in MC–136384 and subs thereunder. Applicant also proposes to interline with other carriers at Atlanta, Savannah and Columbus, GA. Supporting shipper: There are 130 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 46797 (Sub-3–1TA), filed July 10, 1980. Applicant: PHILLIPS TRUCK LINE, INC., 785 East Street, Memphis, TN 38126. Representative: Edward G. Grogan, Suite 2020, First Tennessee Bldg., Memphis, TN 38103. *Common carrier,* regular routes; *General commodities, usual exceptions;* (1) Between Jackson, MS and Memphis, TN and return, via I–55 serving no intermediate points. (2) Between Jackson, MS and Durant, MS; via U.S. 51 to Durant, MS, thence via MS 12 to Ackerman, MS, thence via MS 9 to Eupora, MS, and return, serving all intermediate points. (3) Between Eupora, MS and Bruce, MS, via MS 9, and return serving all intermediate points. (4) Between Calhoun City, MS to Houlka, MS; from Calhoun City, MS via MS 8 to Houston, MS, thence via MS 15 to Old Houlka, MS, thence via MS 32 to Houlka, MS and return, serving all intermediate points. (5) Between Eupora, MS and Houston, MS; from Eupora, MS via U.S. 82 to Mathiston, MS, thence via MS 15 to Houston, MS and return serving all intermediate points, and the off-route points of Pheba, MS, and alternate routes for operating convenience only between Bruce, MS via MS 32 to Houlka and return, and between Jackson, MS and Calhoun City, MS; from Jackson, MS, via I–55 to Grenada, MS, thence via MS 8 to

Calhoun City, MS and return. Applicant intends to interline at Memphis, TN and Jackson, MS. Supporting shipper: There are 46 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 124835 (Sub-3–2TA), filed July 10, 1980. Applicant: PRODUCERS TRANSPORT CO., P.O. Box 4022, Chattanooga, TN 37405. Representative: David K. Fox (same address as above). *Plastics, in bulk, in tank vehicles, and hopper type vehicles,* from Memphis, TN and Arlington, TN to all points in GA, IL, IN, MO, NC, OH, SC, VA and WV. Supporting shipper: Transbulk, Inc., 4646 Poplar-Ste. 407, Memphis, TN 38117 and American Hoechst Corp., 289 N. Main St., Leominster, MA 01453.

MC 139958 (Sub-3–6TA), filed July 8, 1980. Applicant: R. T. TRUCK SERVICE, INC., 2334 Millers Lane, Louisville, KY 40216. Representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, KY 40601. *Commodities dealt in by wholesale and retail food stores and business houses, except commodities in bulk:* Between the facilities of Wetterau Foods, Inc., at or near Greenville, KY and points in the states of KY, IN, IL, OH, WV, MI, MO, NJ, MS, TN, GA, NC, LA, AL, SC, VA, PA, AR, TX, NY, MN and WI. Supporting shipper: Wetterau Foods, Inc., Greenville, KY 42345.

MC 107515 (Sub-3–37TA), filed July 10, 1980. REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. (1) *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 because of size or weight), Between all points in the Continental U.S. Restriction. Restricted to the transportation of traffic moving to, from or between the facilities of or utilized by Minnesota Mining and Manufacturing Company or its wholly owned subsidiaries. Supporting shipper: 3M Company, 3M Center, Transportation—224–1E, St. Paul, MN 55144.

MC 140010 (Sub-3–3TA), filed July 10, 1980. Applicant: JOSEPH MOVING & STORAGE CO., INC., d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree Rd., Chamblee, GA 30341. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *Contract carrier:* irregular: *Automotive tires and materials, equipment and supplies used in the installation and sale of automotive tires* (except in bulk), from Miami, OK, Woodburn, IN and Oaks, PA to Birmingham, AL, under continuing contract(s) with The B. F. Goodrich Company, Tire Group. Supporting shipper: The B. F. Goodrich Company, Tire Group, 500 S. Main St., Akron, OH 44318.

MC 85970 (Sub-3–10TA), filed July 2, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook St., Dyersburg, TN 38024. Representative; Warren Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *(1) Power transmission machinery, metal casting, iron and steel; (2) Parts, attachments, accessories, supplies and items used or utilized in manufacture, distribution and/or sale of items listed in (1) above. Restricted against transportation of items which because of size or weight require use of special equipment,* between Trenton, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). NOTE: Applicant intends to tack with existing authority. Applicant also intends to interline at Memphis, Nashville, TN and St. Louis, MO. Supporting shipper: T.B. Wood's Sons Company, Kellwood Dr., Trenton, TN 38382.

MC 148710 (Sub-3–4TA), filed July 2, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Rd., Atlanta, GA 30341. Representative: Michael D. Bromley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Contract;* irregular; *(1) Canned animal food,* from the facilities of Allied Foods, Inc., at Atlanta, GA, to points in the United States (except AK and HI); *(2) Metal cans,* from the facilities of Allied Foods, Inc., in Atlanta, GA, to points in and east of MN, IA, MO, AR, LA, and TX; Restricted to transportation of traffic under a continuing contract(s) with Allied Foods, Inc., of Atlanta, GA. Supporting shipper: Allied Foods, Inc., P.O. Box 93326, Martech Station, Atlanta, GA 30318.

MC 148710 (Sub-3–5TA), filed July 8, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Rd., Atlanta, GA 30341. Representative: Michael D. Bromley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Contract;* irregular; *Cleaning, buffing and polishing compounds; textile softeners; lubricating oils; and deodorants and disinfectants;* (except commodities in bulk), from facilities utilized by Economics Laboratory, Inc., at or near S. Holland, IL to points in AL, FL, GA, KY, MO, NC, SC, and TN, Restricted to transportation of traffic under a continuing contract(s) with Economics Laboratory, Inc., of St. Paul, MN. Supporting shipper: Economics Laboratory, Inc., Osborn Bldg., St. Paul, MN 55102.

MC 146281 (Sub-3–8TA), filed July 1, 1980. Applicant: SILVER FLEET EXPRESS, INC., 4521 Rutledge Pike, P.O. Box 6089, Knoxville, TN 37194. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. *Such articles as are dealt in by department stores,* between the warehouse of Value Mart at or near Hattiesburg, MS, on the one hand, and, on the other, Cincinnati, OH, and points in its commercial zone. Supporting shipper(s): Value Mart, 2610 Lakeview Road, Hattiesburg, MS 39465.

MC 147474 (Sub-3–4TA), filed July 10, 1980. Applicant: SOUTHWIRE COMPANY, 126 Fertilla Street, Carrollton, GA 30117. Representative: Theordore M. Forbes, Jr., 4000 First National Bank Tower, Atlanta, GA 30303. *Paper products, NOIBN, glass jars and fiberboard cans,* from Windsor Locks, CT; Suffolk, VA; Brockway, PA and Piqua, OH, to all points in GA. Supporting shipper: Southern Tea Company, 1650 Marietta Blvd., Atlanta, GA 30318.

MC 144082 (Sub-3–4TA), filed July 10, 1980. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd., P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same as above). *Contract carrier,* irregular routes; *Such commodities as are dealt in by drug, variety and food stores, and materials, supplies and equipment (except commodities in bulk) used by a manufacturer of such commodities,* from Baltimore, MD to points in the states of NC, SC and GA, restricted to service performed under a continuing contract or contracts with Lever Brothers Company. Supporting shipper: Lever Brothers Company, 390 Park Ave., New York, NY 10022.

MC 140645 (Sub-3–2TA), filed July 2, 1980. Applicant: UNITED TRUCKING, INC., P.O. Box 398, Tallapoosa, GA 30716. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract:* Irregular: *Cleaning, buffing polishing compounds, textile softeners, lubrication oils, deodorants and disinfectants (except in bulk)* from the facilities of Economics Laboratory, Inc. located at or near South Holland, IL to points in GA, AL and TN. Supporting shipper: Economics Laboratory, Inc., Osborn Building, St. Paul, MN 35102.

MC 123872 (Sub-3–3TA), filed July 9, 1980. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman, P.O. Box 3467, Hickory, NC 28601. *Plastic articles* (except in bulk), (1) from Hudson (Caldwell County), NC, to points in AZ, CA, CO, FL, GA, ID, IL, IA,

KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY; and (2) from Litchfield (Montgomery County), IL, to points in AZ, CA, CO, FL, GA, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, NC, OK, OR, SC, SD, TN, TX, UT, VA, WA, WI, and WY. Supporting shipper: International Paper Corp., Consumer Plastics Div., International Blvd., Hudson, NC 28606.

MC 146451 (Sub-3–17TA), filed July 3, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, NE, Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36197. *Resin and Rosin, except in bulk,* from Pensacola, FL, to Mamaroneck, NY. Supporting shipper: M. Argueso & Co., Inc., 441 Waverly Ave., Mamaroneck, NY 10543.

MC 146451 (Sub-3–18TA), filed July 9, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, NE, Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36197. *Wood-burning furnace components,* from Dothan, AL, to Kewanee, IL. Supporting shipper: Dothan Metal Works, Inc., 532 Columbia Highway, Dothan, Al 36301.

MC 124154 (Sub-3–5TA), filed July 8, 1980. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31703. Representative: W. D. Wingate, P.O. Box 645, Albany, GA 31703. *Filter media materials and equipment, materials, and supplies used in filter media materials* between Antonito, CO, Basalt, NV, Berlin, NH, Crawfordsville, IN, and Lompoc, CA and all points in the U.S. (except AK and HI). Supporting shipper: Dicalite Div.—Grefco, Inc., 210 Baronne St., New Orleans, LA 70112.

MC 126542 (Sub-3–1TA), filed July 8, 1980. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 32601. Representative: John W. Cooper, 634 Woodward Bldg., Birmingham, AL 35203. *Contract carrier,* irregular routes, *(1) Traffic reflectors and accessories,* from Niles, IL to all points in the U.S., except AK and HI, *(2) Materials and supplies used in the manufacture and shipping thereof,* from destination points to Niles, IL, under a continuing contract(s) with Amerace Corporation, Signal Products Division. Supporting shipper: Amerace Corporation, Signal Products Division, 7542 North Natchez, Niles, IL 60648.

MC 126542 (Sub-3–2TA), filed July 10, 1980. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 32601. Representative: John W. Cooper, 634 Woodward Bldg., 1927 1st Ave., N., Birmingham, AL 35203. *Contract carrier,* irregular routes; *(1) Forgings and castings, both finished and unfinished, and (2) Machinery, equipment materials and supplies used in the manufacture and shipping thereof,* (1) From Anniston, AL to all points in the U.S., except AK and HI; (2) From destination points to Anniston, AL, under continuing contracts with FMC Corp., Steel Products Division. Supporting shipper: FMC Corp., Steel Products Division, P.O. Box 1030, Anniston, AL 36202.

MC 141652 (Sub-3–3TA), filed July 11, 1980. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 29308. Representative: Mark S. Gray, P.O. Box 872, Atlanta, GA 30301. *Foodstuffs,* from the facilities of J. Hungerford Smith Division of Hunt-Wesson Foods, Inc., at or near Humboldt, TN, to points in the US (except AK and HI). Supporting shipper: J. Hungerford Smith Division of Hunt-Wesson, Inc., 1500 North Central Avenue, Humboldt, TN 38343.

MC 115841 (Sub-3–8TA), filed May 21, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good, McBride Lane, P.O. Box 22168, Knoxville, TN 37922. *Paints, varnish, solvents, paint brushes, rollers, pans, and advertising materials related to the above,* from Chicago and Wheeling, IL to Charlotte, NC. Supporting shipper: The Enterprise Paint Company, 1191 S. Wheeling Road, Wheeling, IL 60090.

MC 121664 (Sub-3–20TA), filed June 27, 1980. Applicant:-HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 1st, Ave., S. Birmingham, AL 35233. *Poles, piling, lumber, crossties, crossarms,* from Louisville, MS, Jackson, TN, Pensacola, FL to points in and east of ND, NE, KS, OK and TX. Supporting shipper: American Cresota Works, Inc., P.O. Box 1444, Jackson, TN 38301.

MC 126898 (Sub-3–1TA), filed June 27, 1980. Applicant: BULLDOG HIWAY EXPRESS, P.O. Box 506, Charleston, SC 29402. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211. *Concrete building slabs with wood fibre aggregate,* from Brunswick, GA to points in NC and SC. Supporting shipper(s): Concrete Products, Inc., P.O. Box 130, Brunswick, GA 31520.

MC 140928 (Sub-3–1TA), filed June 27, 1980. Applicant: VULCAN FREIGHT LINES, INC., P.O. Box 6223–A, Birmingham, AL 35217. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. *Alcoholic beverages (except commodities in bulk),* from all points in the U.S., on the one hand, and, on the other, Jefferson, Montgomery, Madison, Tuscaloosa and Mobile Counties in AL. Supporting shipper(s): Alcoholic Beverage Control Board of the State of Alabama, P.O. Box 1151, Montgomery, AL 36130 and Supreme Beverage Company, Inc., P.O. Box 2725, Birmingham, AL 35202.

MC 144232 (Sub-3–1TA), filed June 27, 1980. Applicant: CONTRACT DISTRIBUTION SYSTEM, INC., 3181 Bankhead Hwy., Atlanta, GA 30318. Representative: Elliot Alderman, P.O. Box 1181, Roswell, GA 30075. *Contract;* irregular; *Such commodities as are dealt in, or used by, food business houses (except commodities in bulk),* from Dover, DE; Hoboken, NJ; Jacksonville, FL; Battle Creek, MI; Lafayette and Evansville, IN; Chicago and Kankakee, IL; Topeka, KS; Houston, TX; San Leandro and Modesto, CA; and points in their respective commercial zones to Liverpool, NY; Dedham, MA; Clifton, NJ; Newark, DE; Chicago, IL; Minneapolis, MN; Indianapolis, IN; Livonia and Taylor, MI; Cincinnati and Youngstown, OH; Memphis, TN; Louisville, KY; Charlotte, NC; Atlanta, GA; Jacksonville, FL; Kansas City, MO; Arlington, TX; Portland, OR; San Leandro and Anaheim, CA; Denver, CO; and points in their respective commercial zones. Restriction: Restricted to a transportation service under a continuing contract(s) with General Foods Corp., White Plains, NY. Supporting shipper(s): General Foods Corporation, 250 North Street, White Plains, NY 10625.

MC 143691 (Sub-3–1TA), filed June 27, 1980. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Darryl B. Segraves (same as above). *Contract;* irregular; *Such commercial papers, documents and written instruments (except currency and negotiable securities) as are used in the business of banks and banking institutions,* between Potter and Randall Counties, TX, on the one hand, and points in Cimarron, Beaver and Texas Counties, OK and Quay and Union Counties, NM, on the other. Supporting shippers: Western Data, Box 1308, Amarillo, TX 79105; The First National Bank of Texhoma, P.O. Box 649, Texhoma, OK 73949; The First National Bank of Guymon, P.O. Box 100, Guymon, OK 73942; The City National Bank and Trust Company, P.O. Box 410, Guymon, OK 73942; and, Bank of the Panhandle, P.O. Box 1027, Guymon, OK 73942.

MC 149218 (Sub-3–6TA), filed June 27, 1980. Applicant: SUNBELT EXPRESS INC., 118 Hamilton Cir., Breman, GA 30110. Representative: Clyde W. Carver,

P.O. Box 720434, Atlanta, GA 30328. (1) *Materials and supplies used in the manufacture of containers (except commodities in bulk),* and (2) *Container components;* (1) from Jefferson City, AL to Henderson, TN and Henderson, KY; and (2) between the facilities of Sonoco Products Co. at or near Orlando, FL; Naperville, IL; Henderson, KY; Hazelwood, MO; Alpha, OH; Charleston and Hartsville, SC; and Henderson, TN. Supporting shipper: Sonoco Products Co., P.O. Box 160, Hartsville, SC 29550.

MC 148710 (Sub-3–2TA), filed June 27, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Rd., Atlanta, GA 30341. Representative: Michael D. Bromley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Contract;* irregular, *(1) Metal and metal products; and (2) Material, equipment and supplies used in the production and distribution of metal and metal products (except commodities in bulk),* between points in the U.S. (except AK and HI). Restricted to transportation of traffic under a continuing contract(s) with Taracorp, Inc. of Atlanta, GA. Supporting shipper(s): Taracorp, Inc., P.O. Box 93624, Atlanta, GA 30318.

MC 52704 (Sub-3–2TA), filed June 27, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Plastic Containers,* from the facilities of Heekin Can Company, Division of Diamond International Corp., at or near Memphis, TN, to points in AL, AR, GA and MS, and (2) *Materials, equipment and supplies used in the manufacture or distribution of plastic containers,* from points in AL, AR, GA and MS, to the facilities of Heekin Can Company, Division of Diamond International Corp. at or near Memphis, TN. Supporting shipper: Heekin Can Company, Div. of Diamond International Corp., 11310 Cornell Park Drive, Blue Ash, OH 45242.

MC 151156 (Sub-3–1TA), filed June 27, 1980. Applicant: JNO. H. SWISHER & SONS, INC., 459 E. 16th Street, Jacksonville, FL 32206. Representative: A. M. Downey, Jr., 218 W. Adams Street, Jacksonville, FL 32202. *Cigars, in boxes, in cartons,* from Jacksonville, FL, to Dothan, AL, and from Dothan, AL, to Jacksonville, FL. Supporting shipper: Bayuk Cigars, Inc., P.O. Box 6569, Dothan, AL 36302.

MC 148710 (Sub-3–3TA), filed June 27, 1980. Applicant: SEABOARD EXPRESS, INC.,5724 New Peachtree Rd., Atlanta, GA 30341. Representative: Michael D. Bromley, Suite 805, 666 Eleventh St., N.W. Washington, DC 20001. *Contract;* irregular, *Chemicals, in packages,* from Groton, CT; North Claymont, DE; Blue Island and Chicago, IL; Indianapolis, IN; Plaquemiane, LA; Baltimore, MD; NJ; Brooklyn, NY; Philadelphia, PA; Memphis, TN; Freeport, TX; and Portsmouth, VA to the facilities utilized by Van Waters & Rogers at or near Atlanta, GA. Restricted to transportation of traffic under a continuing contract(s) with Van Waters and Rogers. Supporting shipper(s): Van Waters & Rogers, Division Univar Corp., 3760 Brown Mill Road, S.E., Atlanta, GA 30354.

MC 142064 (Sub-3–1TA), filed June 26, 1980. Applicant: CAROLINA CARPET CARRIERS, INC., P.O. Box 6, Williamston, SC 29697. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. *Contract carrier:,* Irregular routes: *Floor coverings, and materials and supplies used in the installation, manufacture, packaging and sale of floor coverings,* from the facilities of Kelly-Martin, Inc. at or near Chatsworth and Dalton, GA, to points in the U.S. west of the Mississippi River, under a continuing contract with Kelly-Martin, Inc. Supporting shipper: Kelly-Martin, Inc., P.O. Box 1062, Dalton, GA.

MC 114334 (Sub-3–7TA), filed June 27, 1980. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel, iron and steel articles, and iron and steel pipe and tubing,* from the facilities of Inland Rivers Terminal Co. at or near Little Rock, AR to points in TX, OK, AL, GA, KY, LA, TN, MO, IL, MS and IN. Supporting shipper: Inland Rivers Terminal Co., P.O. Box 6004, Little Rock, AR.

MC 149218 (Sub-3–8TA), filed June 27, 1980. Applicant: SUNBELT EXPRESS INC., 118 Hamilton Cir., Bremen, GA 30110. Representative: Clyde W. Carver P.O. Box 720434, Atlanta, GA 30328. *Cleaning, buffing, polishing compounds, textile softeners, lubricating oil, deodorants and disinfectants (except in bulk),* from the facilities of Economics Laboratory, Inc. located at or near South Holland, IL to pts. in AL, FL, GA, KY, NC, SC, TN and WV. Supporting shipper: Economics Laboratory, Inc., Osborn Bldg., St. Paul, MN 55102.

MC 28307 (Sub-3–1TA), filed June 27, 1980. Applicant: FREDRICKSON MOTOR EXPRESS CORPORATION, 3400 North Graham Street, Charlotte, NC 28206. Representative: Robert D. Hoagland, 1204 Cameron Brown Building, 301 S. McDowell Street, Charlotte, NC 28204. *Common carrier:* regular route: *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)* from facilities of Tennessee Eastman Company at Kingsport, TN, as an off-route point in connection with applicant's existing authority over U.S. Hwy 19–W, between Burnsville, NC, and Johnson City, TN, in Docket MC 28307 (Sub-12). Applicant intends to tack the authority sought with its authority in MC 28307, and to interline with other carriers at Asheville, Charlotte, Greensboro and Hickory, NC, and Knoxville, TN. Supporting shipper: Tennessee Eastman Company, P.O. Box 511, Kingsport, TN 37662.

MC 151036 (Sub-3–1TA), filed June 27, 1980. Applicant: DECATUR TRANSIT, INC., 161 First Avenue, NE, Decatur, AL 35601. Representative: D. H. Markstein, Jr., 512 Massey Bldg., Birmingham, AL 35203. *Petroleum products in bulk, in tank vehicles* from Sheffield, AL to points in TN in and west of the counties of Sumner, Wilson, Rutherford, Bedford, Moore, and Lincoln, and points in MS in and north of the counties of Lauderdale, Neshoba, Attala, Holmes, Humphreys, and Washington. Supporting shipper: Dirago Oil Co., Inc., P.O. Box 67, Tuscumbia, AL 35674.

MC 105813 (Sub-3–2TA), filed May 20, 1980. Applicant: BELFORD TRUCKING CO., INC., 1759 SW 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Foodstuffs (except commodities in bulk)* from the facilites of General Foods Corporation located at Evansville, IN to points in the states of AL, FL, GA, MS, NC, SC and TN. Restricted to traffic originating at the named origin and destined to points in the named destination states. Supporting shipper: General Foods Corporation, 250 North Street, White Plains, NY 10625.

MC 124306 (Sub-3–6TA), filed June 18, 1980. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: W. David Fesperman, P.O. Box 2729, Chapel Hill, NC 27514. *Petroleum and Petroleum Products,* in bulk, in tank vehicles, from Augusta, GA to points and places in NC, SC and VA. Supporting shipper: Koch Fuels, Inc., P.O. Box 276, Augusta, GA 30903.

MC 144168 (Sub-3–2TA), filed June 18, 1980. Applicant: R. E. GARRISON TRUCKING, INC., P.O. Box 186, Cullman, AL 35055. Representative: Michael M. Knight (same address as applicant). *Margarine, shortening, and*

peanut butter products, from the facilities of Sunnyland Refining Co., Birmingham, AL to points in AZ and TX. Supporting shipper: Sunnyland Refining Co., 3330 10th Ave. N., P.O. Box 457, Birmingham, AL 35201.

MC 107478 (Sub-3–3TA), filed May 21, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, N.C. 27261. Representative: C. T. Harris, 506 Mayo Street, P.O. Box 999, Wilson, N.C. 27893. *(A) charcoal, NOI, charcoal, wood, NOI, not activated, charcoal briquetts, NOI, hickory or wood chips and related charcoal products and (B) grills, portable, and grill accessories and charcoal lighter fluids or starters (Except commodities in bulk).* Between points in Florence County, SC, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, IA, KY, LA, MA, MD, ME, MO, MS, NH, NY, OH, PA, RI, TN, TX, VT, VA, WV, and WI. Supporting shipper: T. S. Ragsdale Company, Inc., P.O. Box 939 Lake City, S.C., 29560.

MC 135895 (Sub-3–10TA), filed June 30, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. (1) *Paper, paper products, plastic articles and building materials and (2) materials, equipment and supplies used in the manufacture of commodities named in (1) above (except commodities in bulk and those requiring special equipment)* between points in the U.S. except AK and HI: restricted to traffic originating at or destined to facilities utilized by International Paper Company and its subsidiaries. Supporting shipper: International Paper Company, 220 E. 42nd. St., New York, NY 10017.

MC 150101 (Sub-3–2TA), filed June 30, 1980. Applicant: BLAZER EXPRESS, INC., Rt. 2, Pelham Rd., Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract:* Irregular: *Adhesives, liquid cements; washing compounds; and liquid latex (except in bulk)* from Simpsonville, SC to Jacksonville, Tampa, St. Petersburg, Miami and Orlando, FL; Chicago, IL, Elhart, IN, Louisville, KY; Harvey, LA; New Brighton, MN; Cincinnati, OH; Memphis and Nashville, TN; Dallas, TX; Marshfield, WI; and points in their commercial zones. Supporting shipper: Para-Chem Southern, Inc., P.O. Box 127, Simpsonville, SC 29681.

MC 145072 (Sub-3–7TA), filed June 30, 1980. Applicant: M. S. CARRIERS, INC., 1797 Florida Street, Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Popular Ave., Memphis, TN 38137. *Agricultural chemicals (except in bulk), and products used in the manufacture, distribution and sale of agricultural chemicals, (except commodities in bulk),* between the states of AL, AR, GA, IA, IL, IN, KS, KY, LA, MD, MI, MO, MS, NC, NJ, OH, OK, PA, SC, TN, TX, VA, WV. Supporting shipper: There are six (6) statements in support attached to this application which may be examined at the I.C.C. Regional Office in Altanta, GA.

MC 144069 (Sub-3–7TA), filed June 30, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, N.C. 28225. Representative: W. T. Trowbridge (same address as applicant). *Iron and steel articles.* Between Guilford County, N.C. on the one hand, and, on the other, points in and east of MS, TN, KY, IL and WI. Supporting shipper: Gilbarco, Inc., Greensboro, N.C. 27420 and Powerline Sales, Inc., P.O. Box 452, Jamestown, N.C. 27282.

MC 119777 (Sub-3–12TA), filed June 30, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85–East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *Roofing and roofing materials (except in bulk),* from facilities of Elk Corporation at Tuscaloosa, AL to points in FL, GA, TN, AR, MS and LA. Supporting shipper: Elk Corporation of Alabama, P.O. Box 2450, Tuscaloosa, AL 35401.

MC 151056 (Sub-3–2TA), filed June 30, 1980. Applicant: SUPER SERVICE, INC., 319 Auburn Avenue, Somerset, KY 42501. Representative: George M. Catlett, Attorney at Law, Suite 708 McClure Building, Frankfort, KY 40601. *Common carrier:* irregular: *Charcoal, charcoal briquettes, wood chips, fireplace logs, vermiculite, hickory chips, lighter fluid, paper bags and spices and sauces used in outdoor cooking and materials, supplies and equipment used in the manufacture of the commodities named above,* between the facilities of the Kingsford Company at or near Burnside, KY, on the one hand, and on the other, points and places in the US (except AK and HI). Supporting shipper: The Kingsford Company, P.O. Box 1033, Louisville, KY 40201.

MC 107478 (Sub-3–5TA), filed June 27, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: C. T. Harris, 506 Mayo Street, P.O. Box 999, Wilson, NC 27893. (1) *traffic control products, pavement marking compounds, ballotini, glass beads, materials, equipment and supplies used in the installation thereof and (2) materials, equipment and supplies used in the manufacture, sale, distribution and installation of the commodities named in (1) above (except in bulk).* Between the facilities of Pave-Mark Corporation in Cobb County, Georgia, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Pave-Mark Corporation, 3141 Nifda Drive, Smyrna, Georgia 30081.

MC 143956 (Sub-3–9TA), filed June 30, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, Suite 770, Century Center, 1800 Century Blvd., N.E., Atlanta, Georgia 30345. *Foodstuffs* from Kansas City, MO; Hutchinson, KS; Wabasha, MN; Sacramento, CA; Elmira, NY; and Ft. Worth, TX, on the one hand, to points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WA, WV, WI, on the other hand. Supporting shipper: franchise Services, Inc., Witchita, KS 67201.

MC 121834 (Sub-3–1TA), filed June 30, 1980. Applicant: EZZELL TRUCKING, INC., P.O. Box 67, Harrells, NC. Representative: Mr. James A. Ezzell (same address as above). *Feed ingredients* between Hartsville, SC and Harrells, NC. Supporting shipper: Swift Turkey farms, Harrells, NC 28444.

MC 119777 (Sub-3–13TA), filed June 30, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85–East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *Roofing and roofing materials,* from facilities of Tamko Asphalt Products, Inc. at or near Tuscaloosa, AL to points in FL. Supporting shipper: Tamko Asphalt Products, Inc., 220 W. Fourth St., Joplin, MO 64801.

MC 110012 (Sub-3–2TA), filed June 30, 1980. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr./Robert B. Walker, 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. *Foodstuffs (except commodities in bulk) and equipment and supplies used in the manufacture thereof* between the facilities of Moody Dunbar, Inc. at or near Limestone, TN on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): Moody Dunbar, Inc., P.O. Box 68, Limestone, TN 38781.

MC 149353 (Sub-3–2TA), filed June 30, 1980. Applicant: D. D. H., INC., P.O. Box 459, Middleburg, FL 32068. Representative: Sol H. Proctor, 1101

Blackstone Building, Jacksonville, FL 32202. *Road Building and Construction Aggregates, in bulk,* between points in FL and GA. Supporting shippers: Arron Septic Tank Co., Route 1, Box 735, Callahan, FL; Baker County Septic Tank, P.O. Box 331, Macclenny, FL 32063; C & J Utilities Construction Co., Inc., P.O. Box 957, Macclenny, FL 32063; Glen St. Mary Nurseries, Inc., Hwy 125 South, Glen St. Mary, FL 32040; Houdaille-Duval-Wright Company, 7544 Phillips Hwy., Jacksonville, FL 32216.

MC 146281 (Sub-3–6TA), filed June 30, 1980. Applicant: SILVER FLEET EXPRESS, INC., 4521 Rutledge Pike, P.O. Box 6089, Knoxville, TN 37194. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. *Shoes and materials, supplies and equipment used in the manufacture, sale and distribution of shoes,* between the facilities of United States Shoe Corp. at Cincinnati, OH, on the one hand, and, on the other, Newnan, GA. Supporting shipper(s): United States Shoe Corp., 1658 Herald Corp., Cincinnati, OH 45212.

MC 22179 (Sub-3–1TA), filed June 30, 1980. Applicant: FREEMAN TRUCK LINE, INC., 419 Jefferson Ave., Oxford, MS 38655. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. *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),* between Vicksburg, MS and the MS–LA State Line, via U.S. Hwy. 61, serving all intermediate points, including the terminii. Applicant intends to tack and join the authority sought herein with its existing regular and irregular route authority at Vicksburg, MS and to interline with other carriers at Jackson, Natchez and Vicksburg, MS and Memphis, TN. Supporting shipper(s): There are 13 statements in support attached to the application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 149498 (Sub-3–10TA), filed June 30, 1980. Applicant: RIVER BEND TRANSPORTATION, INC., P.O. Box 5808, Pearl, MS 39208. Representative: Dale Yeager, Sr. (same address as applicant). *General commodities (except those of unusual value, classes A and B explosives, HHG's 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 & Acme Fast Freight forwarder as defined in Section 10102(8) of the Interstate Commerce Act,* points in and between CA, OR, WA, ID, AZ, CO, TX, MT, and UT, and points in and between WI, IL, IN, OH, KY, MO, AR, NJ, PA, NY, VA, AL, MS, FL, LA, WV, WY, NM, NC, SC, CT, MI, and GA. Supporting shipper(s): ABC–TNT & Acme Fast Freight, 2000 Santa Cruze, Anaheim, CA 92804.

MC 135895 (Sub-3–11TA), filed June 30, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, 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, sale and distribution of paper and paper articles, (except commodities in bulk and those requiring special equipment)* between points in the U.S. (except AK and HI); restricted to the transportation of traffic originating at or destined to the facilities of Olinkraft, Inc. Supporting shipper(s): Olinkraft, Inc., P.O. Box 488, West Monroe, LA 71291.

MC 110012 (Sub-3–3TA), filed June 30, 1980. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th Street, N.W., Washington, DC 20004. *New furniture and furniture parts and materials and supplies used in the manufacture and distribution thereof (except commodities in bulk in tank vehicles* between Houston, TX, on the one hand, and, on the other, points in La, MS and AR; between Clifton, NJ, on the one hand, and, on the other, points in PA, MD, DE and DC; between Atlanta, GA, on the one hand, and, on the other, points in NC, VA, KY, TN and SC; and between Chicago, IL and its commercial zone, on the one hand, and, on the other, points in IN and OH. An underlying ETA seeks 90 days authority. Supporting shipper(s): SK Products Corp., 5355 Bucknell Drive S.W., Atlanta, GA 30378.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 4. SEND PROTESTS TO: ICC, DIRKSEN BLDG., 219 S. DEARBORN ST., ROOM 1386, CHICAGO, IL 60604.

MC 135208 (Sub-4–1TA), filed July 8, 1980. Applicant: GEORGE L. BIGELOW TRUCKING, INC., P.O. Box 421, 135 Wright Street, Delavan, Wisconsin 53115. Representative: Richard Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. (1) *Metal waste containers and tool containers* from the facilities of Wastainer, Inc., located at or near Mukwonago, WI to points in Chicago, IL and its commercial zone, and (2) *materials, equipment* and *supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. Supporting shipper: Wastainer, Inc., 538 Oakland Avenue, Mukwonago, WI 53149.

MC 118838 (Sub-4–3TA), filed July 7, 1980. Applicant: GABOR TRUCKING, INC., RR # 4, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. (1) *Gypsum, gypsum wallboard, joint systems* and (2) *materials and supplies used in the installation thereof;* from the plantsite of Georgia-Pacific at or near Lovell, WY to points in OR and WA. Supporting shipper: Georgia-Pacific Corp., 900 SW Fifth Avenue, Portland, OR 97204.

MC 119936 (Sub-4–1TA), filed July 7, 1980. Applicant: FAIRFIELD MOTOR TRANSPORTATION COMPANY, 4350 West 123rd Street, Alsip, IL 60658. Representative: Themis N. Anastos, 120 West Madison Street, Chicago, IL 60602. *Iron and steel articles* from the Chicago, IL commercial zone to the Fort Wayne and Decatur, IN commercial zones and from St. Joe, IN to the Chicago, IL commercial zone. Supporting shippers: Nissho-Iwai American Corp., 200 E. Randolph, Chicago, IL 60601; D–L Steel Company, 4433 West Touhy Avenue, Chicago, IL 60646; Kyodo American Corp., 200 E. Randolph Drive, Chicago, IL 60601; Nucor Corp., Box 1000, St. Joe, IN 46785.

MC 51146 (Sub-4–49TA), filed July 7, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr., (same address as applicant). *Margarine* (except in bulk) from Green Bay and Darlington, WI to Chicago, IL and points in its commercial zone. Supporting shipper: A & Q Service Company, 805 High Street, Westwood, MA 02090.

MC 123294 (Sub-4–7TA), filed July 7, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Insulation materials, and materials, equipment, and supplies used in the manufacturing, installation or distribution of the above named commodities (except commodities in bulk)* between Wabash, IN, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Casco Mineral Wood Division, P.O. Box 41209, Indianapolis, IN 46241. An underlying ETA seeks 90 days authority.

MC 149425 (Sub-4–1TA), filed July 7, 1980. Applicant: WESLEY J. HEMENWAY, d.b.a. W. J. HEMENWAY TRUCKING, Box 401, Big Falls, Minnesota 56627. Representative: Val M. Higgins, 1000 First National Bank Bldg.,

Minneapolis, MN 55402. *Lumber and Wood Products* from Little Fork, MN to points in WI. Supporting shipper: Green Forest, Inc., Box 256, Little Fork, MN 56653.

MC 129645 (Sub-4–3TA), filed July 7, 1980. Applicant: SMEESTER BROS., INC., 1330 S. Jackson St., Iron Mountain, MI 49801. Representative: H. G. Denny (same as applicant). *(1) Mining, ore milling or smelting equipment and materials and supplies and (2) construction materials and materials and supplies (except commodities in bulk and those which because of size or weight require special equipment or handling)* between the facilities of Champion, Inc., located at Iron Mountain and Mount Pleasant, MI, Virginia, MN and Madison, WI on the one hand, and, on the other points in AZ, CA, GA, IL, IN, MI, MN, NH, TX, and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Champion, Inc., 105 East "A" St., Iron Mountain, MI 49801.

MC 139154 (Sub-4–2TA), filed July 8, 1980. Applicant: RICHARDS TRANSPORT, LTD., 1155 McKay Street, Regina, Saskatchewan, Canada. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Prefabricated buildings, complete, knocked down or in sections and in connection therewith, component parts thereof and equipment and materials incidental to the erection and completion of such buildings* from points on U.S.-Canada border in ND to points in ND. Supporting shipper: Muttart Builders Supplies, Ltd., Box 1156, Regina, Saskatchewan, Canada.

MC 150893 (Sub-4–1TA), filed July 7, 1980. Applicant: GEORGE S. VERBISH & ALBERT PAUL VERBISH, a partnership, 5421 White Oak Avenue, East Chicago, IN 46312. Representative: Carl P. Maertz, 1011 East 148th Street, East Chicago, IN 46312. *Contract* irregular (1) *metal culvert pipe, other metal drainage materials,* and *corrugated metal fabrications,* between East Chicago, IN and Kankakee, IL on the one hand; and on the other, points in IN, IL and MI; and (2) *materials, equipment* and *supplies* (except commodities in bulk) used in the manufacturing, sale and distribution of the commodities named in (1) above between East Chicago, IN and Kankakee, IL on the one hand, and on the other, points in IN, IL and MI under a continuing contract or contracts with Young Metal Products, Inc., located at East Chicago, IN and Kankakee, IL. Supporting shipper: Young Metal Products, Inc., 148th Street, East Chicago, IL 46123

MC 146643 (Sub-4–24TA), filed July 7, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract irregular. Flour and materials, equipment and supplies used in the manufacture, sale or distribution of flour (except commodities in bulk),* between Topeka, KS, on the one hand, and, on the other, points in AR, GA, IL, IN, IA, KY, MI, MO, OH, OK, PA, WV and WI. The supporting shipper is: Seaboard Allied Milling Corporation, 1550 W. 29th St., Kansas City, KS 64108.

MC 148930 (Sub-4–3TA), filed July 9, 1980. Applicant: AERO DELIVERIES, INC., 529 Gidley Drive, P.O. Box 416, Grand Haven, MI 49417. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *Contract; Irregular, Fuller Brush Products, household and industrial cleaning compounds, brushes, mops and toilet preparations,* Between the facilities of Fuller Brush Company in Great Bend, KS, on one hand, and ND, SD and MI, on the other hand. Supporting shipper: Fuller Brush company, Box 1247 Westport Addition, Great Bend, KS 67530.

MC 149282 (Sub-4–3TA), filed July 8, 1980. Applicant: CLIFFORD A. PARKHURST, 1229 Dakota, North, Huron, SD 57350. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. *Hides,* from the facilities of Huron Dressed Beef, Inc., at or near Huron, SD, to the facilities of Twin Cities Hide Co., at or near So. St. Paul, MN. Restricted to transportation of shipments originating at named origin and destined to named destination. Supporting shipper: Huron Dressed Beef, Inc., P.O. Box 924, Highway 14, Huron, SD 57350.

MC 144630 (Sub-4–11TA), filed July 9, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Such merchandise as is dealt in by retail department stores, and equipment, materials and supplies used in the conduct of such business,* (except commodities in bulk, in tank vehicles), from Worthington and Columbus, OH to points in CA. Supporting shipper: Gold Circle Stores, Division of Federated Department Stores, 6121 Huntley Road, Worthington, OH 43085.

MC 52657 (Sub-4–2TA), filed July 9, 1980. Applicant: ARCO AUTO CARRIERS, INC., 16 West 151 Shore Court, Burr Ridge, IL 60521. Representative: James Bouril (same address as applicant). *Motor vehicles, in secondary movements, in truckaway service,* from Pitcairn, PA and points within 20 miles thereof to points in the state of MD. Restricted to transportation of motor vehicles having a movement and manufactured or assembled at the facilities of American Motors (Canada) Limited, Brampton, Ontario, Canada or Jeep Corporation, A subsidiary of American Motors Corporation, Toledo, OH. Supporting shipper: American Motors Corporation, 14250 Plymouth Rd., Detroit, MI 48232.

MC 144030 (Sub-4–1TA), filed July 9, 1980. Applicant: DRUE CHRISMAN, INC., P.O. Box 264, Lawrenceburg, IN 47025. Representative: P. J. Snodgrass (same address as applicant). *Beer, and empty containers,* from Eden, NC to the Cincinnati commercial zone. About two loads per month from Cincinnati commercial zone to Eden, NC. Supporting shipper: H. Dennert Dist. Co., 1388 Brashears, Cincinnati, OH 45225.

MC 128837 (Sub-4–16TA), filed July 9, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Agricultural equipment and supplies and materials used in the manufacture of agricultural equipment,* between Cedar Falls, IA, Ft. Wayne, IN, Binghamton, NY, Everett, WA and Morton, IL (restricted to movements originating or terminating at the facilities of the Clay Equipment Company at Cedear Falls, IA, Ft. Wayne, IN, Binghamton, NY, Everett, WA and Morton, IL). Supporting shipper: The Clay Equipment Company, P.O. Box 729, 101 Lincoln St., Cedar Falls, IA 50613.

MC 120364 (Sub-4–5TA), filed July 2, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Rd., Rockford, IL 61109. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. *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,* between Lawrenceville, IL and Paris IL, serving all intermediate points: from Lawrenceville over IL Hwy 1 to Paris, and return over the same route; between Chicago, IL and Fairfield, IL, serving all intermediate points, except those in Will and Kankakee, Counties, IL: from Chicago over US Hwy 54 to jct. US Hwy 45, thence over US Hwy 45 to Fairfield, and return over the same route; between Danville, IL and Lincoln, IL, serving all intermediate points: from Danville over IL Hwy 10 to Lincoln, and return over

the same route; between Marshall, IL and Vandalia, IL, serving all intermediate points: from Marshall over US Hwy 40 to Vandalia, and return over the same route; between Springfield, IL and Jct. US Hwy 36 and IL Hwy 1, serving all intermediate points: from Springfield over US Hwy 36 to jct. IL Hwy 1, and return over the same route; between Lawrenceville, IL and Sandoval, IL, serving all intermediate points: from Lawrenceville over US Hwy 50 to Sandoval, and return over the same route; between Jct. IL Hwy 33 and 49, and Jct. IL Hwy 49 and US Hwy 45, serving all intermediate points: from jct. IL Hwy 33 and 49 over IL Hwy 49 to jct. US Hwy 45, and return over the same route; between Bloomington, IL and Ashley, IL, serving all intermediate points: from Bloomington over US Hwy 51 to Ashley, and return over the same route; between Paris, IL and Gillespie, IL serving all intermediate points: from Paris over IL Hwy 16 to Gillespie, and return over the same route; between Bloomington, IL and Litchfield, IL, serving all intermediate points: from Bloomington over US Hwy 66 to Litchfield, and return over the same route; between Olney, IL and Charleston, IL, serving all intermediate points: from Olney over IL Hwy 130 to Charleston, and return over the same route; between Palestine, IL and Jct. IL Hwy 33 and 128, serving all intermediate points: from Palestine over IL Hwy 33 to jct. IL Hwy 128, and return over the same route; between Mount Vernon, IL and jct. IL Hwy 37 and US Hwy 45, serving all intermediate points: from Mount Vernon over IL Hwy 37 to jct. US Hwy 45, and return over the same route; between jct. IL Hwy 10 and 48, and jct. IL Hwy 48 and US Hwy 66, serving all intermediate points: from jct. IL Hwy 10 and 47 over IL Hwy 47 to jct. IL Hwy 48 to jct US Hwy 66, and return over the same route; between Greenup, IL and Lincoln, IL, serving all intermediate points: from Greenup over IL Hwy 121 to Lincoln and return over the same route; between Clinton, IL and Springfield, IL, serving all intermediate points: from Clinton over US Hwy 54 to Springfield, and return over the same route; between jct. US Hwy 40 and IL Hwy 128, and jct. IL Hwy 128 and 121, serving all intermediate points: from jct. US Hwy 40 and IL Hwy 128 over IL Hwy 128 to jct. IL Hwy 121, and return over the same route; between Ashley, IL and Fairfield, IL, serving all intermediate points: from Ashley over IL Hwy 15 to Fairfield, and return over the same route; between Paris, IL and jct. IL Hwy 133 and US Hwy 36, serving all intermediate points: from Paris over IL Hwy 133 to jct. US Hwy 36, and return over the same route; between Effingham IL, and jct. IL Hwy 105 and 47, serving all intermediate points: from Effingham over IL Hwy 32 to jct IL Hwy 105, thence over IL Hwy 105 to jct. IL 47 and return over the same route; between Raymond, IL and jct. IL Hwy 127 and 16, serving all intermediate points: from Raymond over IL Hwy 127 to Jct. IL Hwy 16, and return over the same route; between Taylorville, IL and jct. IL Hwy 104 and US Hwy 66, serving all intemediate points: from Taylorville over IL Hwy 104 to jct. US Hwy 66, and return over the same route; between Pana, IL and Springfield, IL serving all intermediate points: from Pana over IL Hwy 28 to Springfield and return over the same route; between Paris, IL and Bloomington, IL, serving all intermediate points: from Paris over US Hwy 150 to Bloomington, and return over the same route; between Springfield, IL and Gillespie, IL, serving all intermediate points: from Springfield over IL Hwy 4 to Gillespie, and return over the same route; between Dalton City, IL, and jct. IL Hwy 128 and US Hwy 40, serving all intermediate points: from Dalton City over IL Hwy 128 to jct. US Hwy 40 and return over the same route; between Bloomington, IL and Chicago, IL, serving all intermediate points except those in Will County, IL: from Bloomington over US Hwy 66 to Chicago and return over the same route; between Bloomington, IL and Peoria, IL, serving no intermediate points: from Bloomington over US Hwy 150 to Peoria, and return over the same route. Alternate route for operating convenience only: Between Lincoln, IL, and Morton, IL, serving no intermediate points, and serving Morton for purposes of joinder only: from Lincoln over IL Hwy 121 to Morton, and return over the same route; Restriction—The authority granted herein is restricted against service to points which are located outside the State of Illinois but within the terminal areas of authorized points. (2)(a) Regular routes: General Commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, serving the plant site of American Cyanamid Co., at South River, MO, (near Palmyra) as an off-route point in connection with carriers's regular-route operations authorized in (a) herein; between Jacksonville, IL, and Detroit, IL, serving all intermediate points and the off-route point of Meredosia, IL: from Jacksonville over IL Hwy 104 to junction IL Hwy 100, thence over IL Hwy 100 to Detroit, and return over the same route; between Pearl, IL and Barry, IL, serving all intermediate points and the off-route points of Summer Hill and New Hartford, IL: from Pearl over unnumbered highway via Nebo and New Canton, IL, to Barry, and return over the same route; between Pittsfield, IL, and Perry, IL, serving all intermediate points: from Pittsfield over IL Hwy via Griggsville, IL, to Perry, and return over the same route; between Detroit, IL, and Jerseyville, IL, serving all intermediate points: from Detroit over IL Hwy 100 to Hardin, IL, thence over IL Hwy 16 to Jerseyville, and return over the same route; between Quincy, IL, and St. Louis, MO, serving the intermediate and off-route points in the St. Louis, MO, East St. Louis, IL, Commercial Zone as defined by the Commission in 1 M.C.C. 656 and 2 M.C.C. 285, unrestricted; the intermediate point of Alton, IL, and those between Alton, IL, and St. Louis, MO, unless otherwise authorized, restricted to traffic moving to or from points north of Alton, IL; and all other intermediate points, without restriction: from Quincy over IL Hwy 96 to junction US Hwy 36, thence over US Hwy 36 to Jacksonville, IL, thence over US Hwy 67 to junction unnumbered highway (formerly portion US Hwy 67), thence over unnumbered highway via Woodson, IL, to junction IL Hwy 267, thence over IL Hwy 267 to junction US Hwy 67, thence over US Hwy 67 to Alton, IL, thence over IL Hwy 3 to junction unnumbered highway (formerly portion Alternate US Hwy 67), thence over unnumbered highway to junction IL Hwy 203, thence over IL Hwy 203 to junction US Hwy 460, thence over US Hwy 460 to St. Louis, and return over the same route; from Quincy over US Hwy 24 to Taylor, MO, thence over US Hwy 61 to Wentzville, MO, thence over Bypass US Hwy 40 to junction MO Hwy 115, thence over MO Hwy 115 to junction MO Hwy 180, thence over MO Hwy 180 to St. Louis, and return over the same route; (b) serving the plant site of the Hussmann Refrigerator Company, located at Taussing Road and St. Charles Rock Road, Bridgeton, MO, as an off-route point in connection with carrier's regular-route operations authorized in (a) and (b) herein; between Morton, IL, and Peoria, IL, serving no intermediate points: from Morton over US Hwy 150 to Peoria, and return over the same route; between St. Louis, MO, and specified points in IL, serving all intermediate points, as follows: from St. Louis over US Hwy 50 via Sandoval, IL, to junction unnumbered highway (formerly Alternate US Hwy 50) near Sumner, IL,

thence over unnumbered highway to Lawrenceville, and return over the same route; from St. Louis to Sandoval, as specified above, thence over US Hwy 51 to Normal, and return over the same route; from St. Louis over US Hwy 50 to Salem, IL, thence over IL Hwy 37 to junction US Hwy 45, and thence over US Hwy 45 to Champaign, and return over the same route; from St. Louis over City US Hwy 66 to junction US Hwy 66, thence over US Hwy 66 to junction IL Hwy 4, thence over IL Hwy 4 to Staunton, IL, thence over unnumbered highway to junction US Hwy 66 near Mt. Olive, IL, thence over unnumbered highway to junction US Hwy 66 near Mt. Olive, IL, thence over US Hwy 66 via Litchfield and Springfield, IL, to Bloomington, and return over the same route; from St. Louis to Springfield, as specified above, thence over IL Hwy 29 via Mason City, IL, to Peoria, and return over the same route; from St. Louis to Mason City, as specified above, thence over IL Hwy 10 to Champaign, Il, thence over US Hwy 150 to Danville, and return over the same route; from St. Louis to Springfield, as specified above, thence over US Hwy 36 to Tuscola, and return over the same route; from St. Louis to Litchfield, as specified above, thence over IL Hwy 16 to Paris, and return over the same route; from St. Louis to Litchfield, as specified above, thence over US Hwy 66 to junction IL Hwy 48, thence over US Hwy 48 to Decatur, and return over the same route; from St. Louis over US Hwy 40 via Collinsville, IL, to junction unnumbered highway, thence over unnumbered highway via Troy, St. Jacob, and Highland, IL, to junction US Hwy 40, thence over US Hwy 40 to junction Alternate IL Hwy 40, thence over Alternate US Hwy 40 the Greenville, IL, thence continue over Alternate US Hwy 40 to Marshall, and return over the same route; between specified points in IL, and all intermediate points, as follows: from Springfield over US Hwy 29 to Pana, and return over the same route; from Dalton City over IL Hwy 128 to junction US Hwy 40, thence over US Hwy 40 to St. Elmo, and return over the same route; from Decatur over IL Hwy 121 to Greenup, and return over the same route; from Decatur over US Hwy 36 to La Place, thence over IL Hwy 32 to junction IL Hwy 33, thence over IL Hwy 33 via Effingham to Robinson, and return over the same route; from Livington over IL Hwy 133 to Arcola, and return over the same route. (3) Alternate routes for operating convenience only: between Jacksonville, IL, and Springfield, IL, in connection with carrier's regular-route operations authorized herein serving no intermediate points: from Jacksonville over US Hwy 36 to Springfield, and return over the same route. (4) Irregular routes: Vinegar, calcium, paper boxed and general commodities within a fifty (50) mile radius of 3216 Princeton Ave., Chicago, IL, to transport such property to or from any point outside such authorized area of operation for a shipper or shippers within such area. An underlying ETA seeks 90 days authority. There are 12 supporting shippers.

MC 111594 (Sub-4–3TA), filed July 7, 1980. Applicant: CW TRANSPORT, INC., 610 High Street, Wisconsin Rapids, Wisconsin 54494. Representative: Donald B. Levine, 39 South La Salle Street, Chicago, Illinois 60603. *Common 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) From St. Paul, MN to Davenport, IA, from St. Paul over U.S. 52 to junction U.S. 67, then over U.S. 67 to Davenport and return over the same route. (2) From St. Paul, MN to Iowa City, IA, from St. Paul over U.S. 52 to Rochester, MN, then over U.S. 63 to Waterloo, IA, then over U.S. 218 to Iowa City and return over the same route. (3) From St. Paul, MN to Kansas City, MO, from St. Paul over U.S. 65 to Albert Lea, MN, then over U.S. 69 to Kansas City and return over the same route. (4) From St. Paul, MN to Albert Lea, MN, from St. Paul over U.S. 61 to La Cross, WI, then over U.S. 16 to Albert Lea and return over the same route. (5) From Chicago, IL to Des Moines, IA, from Chicago over I–55 to junction I–80, then over I–80 to Des Moines and return over the same route. (6) From Wisconsin Rapids, WI to Dubuque, IA, from Wisconsin Rapids over WI 13 to Wisconsin Dells, WI, then over WI 23 to junction U.S. 151, then over U.S. 151 to Dubuque and return over the same route. (7) From Minocqua, WI to Merrill, WI, from Minocqua over U.S. 51 to Merrill and return over the same route. (8) From Prentice, WI to Heafford Junction, WI, from Prentice over U.S. 8 to Heafford Junction and return over the same route.

Note.—(1) Applicant proposes to serve the commercial zone of all termini points and intermediate points and off route points. (2) Applicant proposes to tack any authority granted herein with its own existing authorities to provide service to points in GA, IL, IN, KY, MI (U.P.), MN, MO, NC, OH, SC and WI. (3) Applicant proposes to interline freight at the termini and intermediate points on said routes. (4) Service is authorized at all off route points in IA located on and east of U.S. 69 and on and north of I–80, all points in WI located on and south of WI 70 and on and west of U.S. 51 in the counties of Adams, Columbia, Crawford, Dane, Grant, Green, Iowa, Juneau, Lafayette, Lincoln, Marathon, Marquette, Oneida, Portage, Price, Richland, Rock, Sauk, Vernon and Wood and the off route points of Knoxville, Muscatine, Oskaloosa, Ottumwa and Washington, IA, and Trenton, MO.

MC 108835 (Sub-4–2TA), filed July 1, 1980. Applicant: HYMAN FREIGHTWAYS, INC., 1745 University Ave., St. Paul, MN 55104. Representative: Stephen F. Grinnell, 1000 First Natl Bank Bldg., Minneapolis, MN 55402. *Common;* regular: *General commodities* (except those of unusual value, household goods, classes A & B explosives, commodities in bulk and those requiring special equipment) from St. Paul over U.S. Hwy 61 to junction MN Hwy 20, thence over MN Hwy 20 to junction U.S. Hwy 52, and thence over U.S. Hwy 52 to Preston, and return over the same route. From St. Paul over MN Hwy 218 to Farmington, MN, thence over MN Hwy 50 to Hampton, MN, and thence over U.S. Hwy 52 to Preston, and return over the same route. Service is authorized to and from all intermediate points on the above-specified routes other than Rosemount, Farmington, and Hampton, MN, and the off-route points of Scotchlite, Wykoff, Oronoco, and Douglas, MN, and those in the Minneapolis-St. Paul, MN Commercial Zone, as defined by the Commission. Between Red Wing, MN and Junction U.S. Hwy 61 and MN Hwy 20: From Red Wing over U.S. Hwy 61 to junction MN Hwy 20, and return over the same route. Service is authorized to and from intermediate point of Miesville, MN. Between Minneapolis, MN and Spring Valley, MN: From Minneapolis over U.S. Hwy 65 to Farmington, MN, thence over U.S. Hwy 50 to Hampton, MN, thence over U.S. Hwy 52 to Rochester, MN, and thence over U.S. Hwy 63 to Spring Valley, and return over the same route. Service is authorized to and from all intermediate points other than Farmington and Hampton, MN, and the off-route point of Scotchlite, MN, and those in the Minneapolis-St. Paul, MN Commercial Zone as defined by the Commission. Between Winona, MN and Owatonna, MN: From Winona over U.S. Hwy 14 to Owatonna, and return over the same route. Service is authorized to and from all intermediate points and the off-route points of Mantorville, West Concord, Claremont and Havanna, MN. Between Rochester, MN and Winona, MN: From Rochester over U.S. Hwy 14 to junction MN Hwy 42, thence over MN Hwy 42 to Plainview, MN, thence over an unnumbered Hwy to Beaver, MN, thence over MN Hwy 74 to Weaver, MN, and thence over U.S. Hwy 61 to Winona,

and return over the same route. Service is authorized to and from the intermediate points of Plainview and Elgin, MN. Between Viola, MN and Elgin, MN: From Viola over unnumbered Hwy to junction MN Hwy 42, thence over MN Hwy 42 to Elgin, and return over the same route. Service is not authorized to or from intermediate points. Between Kenyon, MN and Spring Valley, MN: From Kenyon over MN Hwy 56 to junction U.S. Hwy 63, thence over U.S. Hwy 63 to Spring Valley, and return over the same route. Service is authorized to and from all intermediate points. Between Austin, MN and Spring Valley, MN: From Austin over U.S. Hwy 16 to Spring Valley, and return over the same route. Service is authorized to and from all intermediate points, and the off-route points of Vlasaty, Sargeant, Elkton, Ostrander and Etna, MN. Between Preston, MN and Hokah, MN: From Preston over U.S. Hwy 52 to Harmony, MD to Proper, MN, thence over MN Hwy 44 to Hokah, and return over the same route. Between Winona, MN and St. Charles, MN: From Winona over U.S. Hwy 61 to Minnesota City, MN, thence over Winona County Road 13 to Elba, MN, thence over MN Hwy 74 to St. Charles, and return over the same route. Service is authorized to and from all intermediate points, For operation convenience only in connection with the above-authorized regular routes. Between Zumbrota, MN and Red Wing, MN: From Zumbrota over U.S. Hwy 58 to Red Wing. Between Rochester, MN and Lake City, MN: From Rochester over U.S. Hwy 63 to Lake City. Between Weaver, MN and Red Wing, MN: From Weaver over U.S. Hwy 61 to Red Wing. From Winona, MN and Eau Claire, WI. From Winona, over the Mississippi River Bridge to junction WI Hwy 35, thence over WI Hwy 35 to Alma, WI thence over WI Hwy 37 to Eau Claire. Return over these routes. Service is not authorized to or from intermediate points. Between Winona, MN and Prosper, MN as follows: From Winona over MN Hwy 43 to Rushford, MN, thence over U.S. Hwy 16 to junction U.S. Hwy 52, and thence over U.S. Hwy 52 to Prosper; and return from Prosper over MN Hwy 44 to Mabel, MN, thence over MN Hwy 43 to Winona. Service is authorized to and from all intermediate points on the above specified routes. Between Harmony, MN, and LaCrosse, WI: From Harmony over U.S. Hwy 52 to Prosper, MN, thence over MN Hwy 44 to Hokah, MN, and thence over U.S. Hwy 16 to LaCrosse, and return over the same route. Service is authorized to and from the intermediate points of Spring Grove, Caledonia, Hokah, LaCrescent, Mabel, and those between Mabel and Harmony, MN; and the off-route points of Granger, Henrytown, Highland, Newhouse and Newburg, MN. Between Winona, MN and LaCrosse, WI: From Winona over U.S. Hwy 61 to LaCrosse, and return over the same route. Service is not authorized to or from intermediate points or between the termini. Between Minneapolis, MN and Cannon Falls, MN: From Minneapolis over MN Hwy 55 to junction U.S. Hwy 52, thence over U.S. Hwy 52 to Cannon Falls, and return over the same route, serving the intermediate points of Pine Bend and Coates, MN. Between Spring Valley, MN and Madison, WI: From Spring Valley, MN over U.S. Hwy 16 to its junction with Interstate Hwy 90 thence over Interstate Hwy 90 to its junction with Interstate Hwy 94, thence over Interstate Hwy 94 (also portion Interstate Hwy 90) to Madison, WI, and return over the same route, serving all intermediate points. From Spring Valley, MN over U.S. Hwy 16 to LaCrosse, WI, thence over U.S. Hwy 16 to its junction with Interstate Hwy 90 to its junction with Interstate Hwy 94, thence over Interstate Hwy 94 (also portion Interstate Hwy 90), to Madison, WI, and return over the same route, serving all intermediate points. From Spring Valley, MN, over U.S. Hwy 63 to its junction with Interstate Hwy 90, thence over Interstate Hwy 90 to its junction with Interstate Hwy 94, thence over Interstate Hwy 94 (also portion Interstate Hwy 90), to Madison, WI, and return over the same route, serving all intermediate points; From Spring Valley, MN over U.S. Hwy 63 to its junction with MN Hwy 60, thence over MN Hwy 60 to the Mississippi River, thence over the Mississippi River to WI Hwy 25, thence over WI Hwy 25 to its junction with U.S. Hwy 10, thence over U.S. Hwy 10 to its junction with Interstate Hwy 94, thence over Interstate Hwy 94 to its junction with Interstate Hwy 90, thence over Interstate Hwy 90 (also portion Interstate Hwy 94), to Madison, WI, and return over the same route, serving all intermediate points except South Troy, Zumbro Falls, West Albany, Dumfries and Wabasha, MN. Between Spring Valley, MN and Stevens Point, WI: From Spring Valley, MN over U.S. Hwy 63 to Rochester, MN, thence over U.S. Hwy 14 to the Mississippi River, thence over the Mississippi River to the junction with WI Hwy 54, thence over WI Hwy 54 to its junction with WI Hwy 35, thence over WI Hwy 35 to its junction with U.S. Hwy 53, thence over U.S. Hwy 53 to its junction with WI Hwy 29, thence over WI Hwy 29 to Wausau, WI, thence over U.S. Hwy 51 to Stevens Point, WI, and return over the same route, serving all intermediate points (except Cadott, Boyd, Stanley, Thorp, Withee, Owen, and Curtis, WI.) Between Spring Valley, MN and the junction of Interstate Hwy 90 and Interstate Hwy 94: From Spring Valley, MN over U.S. Hwy 63 to its junction with MN Hwy 60, thence over MN Hwy 60 to the Mississippi River, thence over Mississippi River to WI Hwy 25, thence over WI Hwy 25 to its junction with U.S. Hwy 10, thence over U.S. Hwy 10 to Stevens Point, WI, thence over U.S. Hwy 51 to its junction with Interstate Hwy 90 (also portion Interstate Hwy 94), and return over the same route, serving all intermediate points (except South Troy, Zumbro Falls, West Albany, Dumfries, and Wabasha, MN). Serving as off-route points in connection with the above-described regular routes all points in WI on and west of U.S. Hwy 51 and, unless excepted as intermediate points in the above-described route descriptions, on and south of a line created by U.S. Hwy 12 and WI Hwy 29 from Hudson, WI, to Wausau, WI (except points in Vernon, Richland, Crawford, Grant, Iowa, Lafayette and Rock Counties, WI). Restriction: The authority granted herein shall not be serverable by sale otherwise from the authority contained in certificate MC 8964 Sub 30. (1) Between Spring Valley, MN and Iowa City, IA: From Spring Valley over U.S. Hwy 63 to its junction with U.S. Hwy 218, then over U.S. Hwy 218 to Iowa City and return over the same route, serving all intermediate points in IA.

(2) Between Spring Valley, MN and the junction of U.S. Hwy 30 and 65: From Spring Valley over U.S. Hwy 16 to its junction with Interstate Hwy 90 then over junction with Interstate Hwy 90 to its junction with Interstate Hwy 35, then over Interstate 35 to its junction with U.S. Hwy 30, then over U.S. Hwy 30 to its junction with U.S. Hwy 65, and return over the same route, serving all intermediate points in IA. (3) Between Spring Valley, MN and the junction of U.S. Hwy 63 and 30: From Spring Valley over U.S. Hwy 16 to its junction with Interstate Hwy 90 then over Interstate Hwy 90 to its junction with Interstate Hwy 35 then over Interstate Hwy 35 to its junction with U.S. Hwy 65, and then over U.S. Hwy 65 to its junction U.S. Hwy 30, then over U.S. Hwy 30 to its junction with U.S. Hwy 63, and return over the same route serving all intermediate points in IA. (4) Between Spring Valley, MN and Iowa City, IA: From Spring Valley over U.S. Hwy 63 to its junction with Interstate Hwy 80, then over Interstate Hwy 80 to Iowa City and

return over the same route, serving all intermediate points in IA. (5) Between Spring Valley, MN and Prairie du Chien, WI: From Spring Valley over U.S. Hwy 16 to its junction with U.S. Hwy 52, then over U.S. Hwy 52 to its junction with U.S. Hwy 18, thence over U.S. Hwy 18 to Prairie du Chien and return over the same route, serving all intermediate points in IA. From Spring Valley over U.S. Hwy 16 to its junction with U.S. Hwy 52, then over U.S. Hwy 52 to its junction with MN Hwy 44, then over MN Hwy 44 to MN Hwy 76, then over MN Hwy 76 to the MN-IA Boundary line, then over IA Hwy 76 to its junction with U.S. Hwy 18, then over U.S. Hwy 18 to Prairie du Chien, and return over the same route, serving all intermediate points in IA. Between Alma Center, WI and Winona, MN: From Alma Center over County Hwy A to Pigeon Falls, WI, thence over U.S. Hwy 53 to Galesville, WI, thence over WI Hwy 54 to Bluff, WI, and thence across the Mississippi River to Winona, and return over the same route. Between Minneapolis, MN and Albert Lea, MN, serving the intermediate point of Faribault and Owatonna; from Minneapolis over Interstate Hwy 35 to Albert Lea, and return over the same route. Between Chicago, IL and Madison, WI, serving no intermediate points: from Chicago over Interstate Hwy 90 to Madison, and return over the same route. Alternate routes for operating convenience only: Between Minneapolis, MN and Winona, MN, serving no intermediate points: from Minneapolais over U.S. Hwy 61 to Winona, and return over the same route. Between Des Moines, IA and Spring Valley, MN serving no intermediate points: from Des Moines over Interstate Hwy 35 to the junction of U.S. Hwy 18; thence over U.S. Hwy 18 to the junction U.S. Hwy 65; thence over U.S. Hwy 65 to junction IA Hwy 9; thence over IA Hwy 9 to junction U.S. Hwy 63; thence over IA Hwy 63 to Spring Valley, MN, and return over the same route. Between Waterloo, IA and St. Louis, MO, serving no intermediate points: from Waterloo over U.S. Hwy 218 to junction U.S. Hwy 61; thence over U.S. Hwy 61 to junction Interstate Hwy 70; thence over Interstate Hwy 70 to St. Louis, and return over the same route. Between Chicago, IL and Spring Valley, MN, serving no intermediate points: from Chicago over Interstate Hwy 90 to junction U.S. Hwy 20; thence over U.S. Hwy 20 to junction U.S. Hwy 52; thence over U.S. Hwy 52 to junction MN Hwy 16; thence over MN Hwy 16 to Spring Valley, MN, and return over the same route. Between Iowa City, IA and Rock Island, IL serving no intermediate points: from Iowa City over Interstate Hwy 80 to Rock Island and return over the same route. Between Dubuque IA and Cedar Rapids, IA serving no intermediate point: from Dubuque over U.S. Hwy 151 to Cedar Rapids and return over the same route. Between Dubuque, IA and Waterloo, IA serving no intermediate points: from Dubuque over U.S. Hwy 20 to Waterloo and return over the same route. There are 99 supporting shippers.

MC 146156 (Sub-4–2TA), filed July 3, 1980. Applicant: TIPPECANOE WAREHOUSING, INC., 445 Morland Drive, Lafayette, IN 47905. Representative: Richard A. Mehley, 1000 Sixteenth Street, NW, Suite 502, Washington, DC 20036. *Such Merchandise as is dealt in by drug stores, grocery stores, and retail outlets and other wholesalers and manufacturers*; between Lafayette, IN on the one hand, and on the other hand, points in IL, MI, MO (St. Louis), OH, and WI. Supporting shipper: Five supporting shippers.

MC 119619 (Sub-4–3TA), filed July 8, 1980. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd Street, Chicago, IL 60609. Representative: Arthur J. Piken, Queens Office Building, 95–25 Queens Boulevard, Rego Park, NY 11374. *Foodstuffs* (except commodities in bulk) *and such materials, supplies and equipment used in the manufacture and distribution of foodstuffs.* Between plant and warehouse facilities of LaChoy Food Products, Division of Beatrice Foods Co., at Archbold and Napoleon, OH on the one hand, and, on the other, points in the U.S., in and east of MT, WY, CO and NM, except foodstuffs from Archbold, OH to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, PA, RI, VT, VA, WV, WI and DC. "An underlying ETA seeks 90 days authority". Supporting shipper: LaChoy Food Products, Division of Beatrice Foods Co., Archbold, OH.

MC 133689 (Sub-4–27TA), filed July 8, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. (1) *Containers, container closures and ends, paper, paper products, plastic materials, and plastic articles, wood products, cellulose products and packaging material* (except commodities in bulk) and (2) *equipment, materials, and supplies used in the manufacture, sale and distribution of the commodities described in Part* (1) above (except commodities in bulk), between the facilities of Greif Bros. Corporation and its subsidiaries on the one hand, and points in the U.S. (except AK and HI) on the other hand. Restricted to traffic originating at or destined to the facilities of Greif Bros. Corporation and its subsidiaries. An underlying ETA seeks 90 days authority. Supporting shipper: Greif Bros. Corporation, 1821 University Ave., St. Paul, MN 55104.

MC 106674 (Sub-4–29TA), filed July 7, 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, furniture parts and components and materials and supplies used in the manufacture and distribution of the above* between points in the US (except AK or HI). Restricted to the transportation of traffic originating at or destined to the facilities of Leggett & Platt, Inc. Supporting shipper: Leggett & Platt, Inc., Carthage, MO 64836.

MC 148344 (Sub-4–1TA), filed June 23, 1980. Applicant: TRAVIOLI AND SONS TRUCKING, INC., R.R. 31, Box 169A, Terre Haute, IN 47803. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Contract* Irregular *Industrial cleaning compounds, weed killers, insecticides, chemicals and applicators* (except commodities in bulk), between Chamblee, GA on the one hand, and, on the other, Indianapolis, IN and Hialeah, FL under continuing contract(s) with Oxford Chemical Company, Chamblee, GA. Supporting shipper: Oxford Chemical Company, 5001 Peachtree Industrial Blvd., Chamblee, GA 30341.

MC 19311 (Sub-4–2TA), filed July 9, 1980. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield, Hills, 48013. (a) *aluminum scrap and empty bins* in specially designed trailers with movable floors from the facilities of General Motors Corporation in MI to the facility of General Motors Corporation at or near Massena, NY, and (b) *castings and automobile parts* in specially designed trailers with movable floors from the facilities of General Motors Corporation at or near Massena, NY to the facilities of General Motors Corporation in MI. An underlying ETA seeks 90 days authority. Supporting shipper: Mr. Donald Pietrzak, Division Traffic Manager, Central Foundry Division—General Motors Corporation, 77 West Center St., Saginaw, MI 48605.

MC 125708 (Sub-4–9TA), filed July 9, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, P.O. Box 5216, Lake Station, IN 46405. Representative: J. H.

Klostermann, 109 Velma, South Roxana, IL 62087. *Refractories in bags, palletized* from High Hill, MO to points in the states of AL, OK, MS and TX. Supporting shipper: Missouri Minerals Processing, Inc., High Hill, MO 63350.

MC 150051 (Sub-4–3TA), filed July 9, 1980. Applicant: MAX W. BAY, d.b.a. MAX W. BAY TRUCKING, Box 47, Northrop, MN 56075. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract; Irregular; Liquid molasses, liquid feed and feed ingredients,* in bulk, in tank vehicles, between Savage, MN and points in IA, ND, SD and WI, under a continuing contract with Cargill, Inc., Minneapolis, MN. An underlying ETA seeks 90 days authority. Supporting shipper: Cargill, Inc., P.O. Box 9300, Minneapolis, MN 55440.

MC 51146 (Sub-4–52), filed July 11, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Equipment, materials and supplies used in the manufacture of fireplaces* from points in MO, IL, IN, OH and NM to Stevens Point and Wisconsin Rapids, WI. Supporting shipper: Preway, Inc., Wisconsin Rapids, WI 54494.

MC 51146 (Sub-4–51TA), filed July 10, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2208, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Games and toys,* NOI between the facilities of Tonka Toys at Minneapolis, MN and points in its commercial zone on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper: Tonka Toys, Division of Tonka Corporation, 5300 Shoreline Blvd., Mound, MN 55364.

MC 51146 (Sub-4–50TA), filed July 10, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2208, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. *Such commodities as are dealt in, or used by, manufacturers and distributors of doors and door frames,* between the facilities of Steelcraft Mfg. Div. of American Standard Corp. at Blue Ash and Springdale, OH on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper: Steelcraft Manufacturing Company, 9017 Blue Ash Road, Cincinnati, OH 45242.

MC 94430 (Sub-4–1TA), filed July 10, 1980. Applicant: WEISS TRUCKING COMPANY, INC., P.O. Box 7, Mongo, IN 46771. Representative: James R. Stiverson, 1396 W. Fifth Ave., Columbus, OH 43212. *Sand,* from Akron, OH, to points in IL, IN, MI, NY, PA, WV, and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Manley Bros. of Indiana, Inc., P.O. Box 538, Chesterton, IN 46304.

MC 143002 (Sub-4–3), filed July 10, 1980. Applicant: C.D.B. INCORPORATED, 155 Spaulding, SE, Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract:* irregular; *household and personal care products and materials and supplies used in the manufacture and distribution thereof* between Santa Ana, Los Angeles, Buena Park, Torrance, and La Mirada, CA; Kent, WA; Arlington, TX; Atlanta, GA; Aurora, CO; Des Moines, IA; and Dayton, Jamesburg, Secaucus, Metuchen and New Brunswick, NJ, and their respective commercial zones, under continuing contract(s) with Amway Corporation. An underlying ETA seeks 90-day authority. Supporting shipper: Amway Corporation, 7575 E. Fulton Rd., Ada, MI 49355.

MC 142640 (Sub-4–3TA), filed July 10, 1980. Applicant: P.W.K. TERMINALS, INC., 6 Highgate Course, St. Charles, IL 60174. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Contract* irregular. *Railway car parts; materials, equipment and supplies used in the manufacture, assembly, sale and distribution of railway car parts (except in bulk);* between Geneva, IL, on the one hand, and, on the other, points in MI, IN, OH and PA. Shipper: Miner Enterprises, Inc., 1200 E. State St., Geneva, IL 60134.

MC 146760 (Sub-4–1TA), filed July 10, 1980. Applicant: CARY V. MONDUS AND GARY E. HAGER, d.b.a. G & G EXPRESS, 218 Brunswick Court, Streamwood, IL 60103. Representative: Philip A. Lee, 120 West Madison St., Chicago, IL 60602. *Supplies for medical diagnostic machines and medical laboratory supplies,* from Elk Grove Village, IL to points in the State of IA. Supporting shipper: Curtin Matheson Scientific Inc., 1850 Greenleaf Ave., Elk Grove Village, IL 60007.

MC 151246 (Sub-4–1TA), filed July 10, 1980. Applicant: JOHN DOTSETH TRUCKING, INC., Route 6, Menomonie, Wisconsin 54751. Representative: Stanely C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, Minnesota 55435. *General commodities (except those of unusual value, Classes A and B explosives, and commodities in tank vehicles),* between points in St. Croix, Dunn, Barron, Chippewa and Eau Claire Counties, WI, on the one hand, and, on the other, points in Minneapolis-St. Paul Commercial Zone, forty supporting shippers.

MC 134477 (Sub-4–35TA), filed July 11, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 W. Mendota Rd., West St. Paul, MN 55118. Representative: Thomas Fischback, P.O. Box 43496, St. Paul, MN 55164. *(1) Vending machines, food or beverage dispensers, coolers, ovens, coin handling devices, containers and steel cylinders and (2) equipment, materials and supplies used in the manufacture or distribution of commodities named in (1) above,* between the facilities of The Cornelius Company at or near Anoka, MN on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: The Cornelius Company, Hwy. 10 West, Anoka, MN.

MC 128543 (Sub-4–5TA), filed July 11, 1980. Applicant: CRESCO LINES, INC., 13900 South Keeler Avenue, Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Contract:* Irregular: *Zinc, zinc alloys, and zinc products,* between Depue, IL, on the one hand, and, on the other, points in IN, OH, and MI, under a continuing contract or contracts with New Jersey Zinc Division of Gulf & Western Natural Resources Group, a Division of Gulf & Western Industries, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: New Jersey Zinc Division of Gulf & Western Natural Resources Group, a Division of Gulf & Western Industries, Inc., First American Center, Nashville, TN 37238.

MC 20824 (Sub-4–2TA), filed July 10, 1980. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, 2141 S. High School Rd., Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving the facilities of S. Mattison & Associates, located at or near South Charleston, OH, as an off-route point in connection with applicant's presently authorized regular-route operations. An underlying ETA seeks 90 days authority. Supporting shippers: International Harvester Co., P.O. Box 607, Springfield, OH 45501; S. Mattison & Associates, P.O. Box 189, South Charleston, OH 45368.

MC 146094 (Sub-4–1TA), filed July 7, 1980. Applicant: BURK DELIVERY SERVICE, INC., 6524 Brookville Road, P.O. Box 19184, P.O. Box 19184,

Indianapolis, IN 46219. Representative: Alki E. Scopelitis, 1301 Merchants PLaza, Indianapolis, IN 46204. *Contract; Irregular. Such commodities as are utilized, distributed and sold by retail drug stores,* from the facilities of Hook Drugs, Inc. at Indianapolis, IN, to points in OH. Restricted to a contract or continuing contracts with Hook Drugs, Inc. An underlying ETA seeks 90 days operating authority. Supporting shipper: Hook Drugs, Inc., 2800 Enterprise Street, Indianapolis, IN 46219.

MC 147404 (Sub-4–1TA), filed July 8, 1980. Applicant: DONALD J. GETTELEFINGER, d.b.a., GETTELFINGER FARMS, R.R. 2, Box 241, Palmyra, IN 47641. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. (1) *Bananas, and (2) Agricultural commodities, the transportation of which is exempt from economic regulation under Section 10526 of the Interstate Commerce Act when transported at the same time and in the same vehicle as bananas,* from Mobile, AL, Tampa, FL, New Orleans, LA and Gulfport, MS to Louisville, KY. Underlying ETA seeks 90 days authority. Supporting shippers: Harshfield Bros., Inc., 312 North 1st Street, Louisville, KY 40202 and S & S Produce, Inc., Units 8 and 10, Louisville Produce Terminal, Louisville, KY 40218.

MC 144645 (Sub-4–2TA), filed July 7, 1980. Applicant: ROBERT HANSEN TRUCKING, INC., Route 2, Box 125, Delavan, WI 53115. Representative: Daniel R. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract Irregular. Candy, candy products and such commodities as are used in the sale or distribution of candy* from Delavan, WI, to points in AZ, CA, CO, GA, MI, MO, MT, NJ, OH, RI, TX, and WY, under a continuing contract with Andes Candies, Inc, of Delavan, WI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Andes Candies, Inc., 1400 East Wisconsin Street, Delavan, WI 53115.

MC 15975 (Sub-4–8TA), filed July 9, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *Automobile parts and materials, supplies and equipment used in the manufacture and assembly of motor vehicles,* between the facilities of Ford Motor Company at or near Detroit, MI, on the one hand, and, on the other, St. Louis, MO. Supporting shipper(s): Ford Motor Company, 200 Parklane Towers East, Dearborn, MI 48126.

MC 123407 (Sub-4–41TA), filed July 11, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Ceiling fans, exhaust fans, electric heaters, and electric motors* from Bennettsville, SC, to TX, AR, FL, and CA. Supporting shipper: Emerson Electric Company, Route 3, Box 42, Bennettsville, SC 29512.

MC 142821 (Sub-4–1TA), filed July 10, 1980. Applicant: ROY M. BROWN, Route, No. 2, Galatia, IL 62935. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Coal,* from Marion, IL to Tullahoma, TN. An underlying E/T/A seeks 90 days authority. Supporting shipper: Blackfoot Coal Company, P.O. Box 81, Lake City, TN 37769.

MC 150527 (Sub-4–3TA), filed July 8, 1980. Applicant: TLX, INC., P.O. Box 2278, Hessville, IN 46323. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Toilet Preparations (except in bulk)* from the Plantsite of Rayette-Faberge, Inc. at St. Paul, MN to Raeford, NC. An underlying ETA seeks 120 days authority. Supporting shipper: Rayette, Faberge, Inc., 185 Lafond Street, St. Paul, MN 55103.

MC 146071 (Sub-4–2TA), filed July 8, 1980. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Articles A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides),* from the facilities utilized by Wisconsin Beef Industries, Inc., at Eau Claire, WI, to points in NE, OK, GA, FL and IL. Supporting shipper: Wisconsin Beef Industries, 2715 Hogarth St., Eau Claire, WI 65701.

MC 134477 (Sub-4–34TA), filed July 8, 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. *(1) Toilet preparations and soap products and (2) materials, equipment and supplies used in the manufacture and distribution of toilet preparations and soap products (except commodities in bulk),* between the facilities of Minnetonka, Inc. at or near Danville and Momence, IL and Totawa, NJ on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shipper: Minnetonka, Inc., Jonathan Industrial Center, Chaska, MN 55318.

MC 114457 (Sub-4–11TA), filed July 8, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, 2102 University Ave., St. Paul, MN 55114. *Dental, hygenic, medical or surgical supplies and other related articles* from Argonne, IL to Columbus, OH. Supporting shipper: Johnson & Johnson, 4949 West 65th Street, Chicago, IL 60638.

MC 134477 (Sub-4–33TA), filed July 8, 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. *Games and toys and equipment, materials, and supplies used in the manufacture and distribution of games and toys (except commodities in bulk),* between the facilities of Tonka Toy Corp. located at Minneapolis, MN and points in its commercial zone on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Tonka Toy Corp., 5300 Shorline Dr., Mound, MN 55364.

MC 151237 (Sub-4–1), filed July 10, 1980. Applicant: DWIGHT WILLIAM EMSTROM, d.b.a. DWIGHT W. EMESTROM, Rural Route #2, Galesburg, IL 61401. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Grain elevator machinery, parts, supplies and machinery used in the construction of grain elevator machinery,* from Heyworth and Decatur, IL, Watertown, WI, Minneapolis and Cambridge, MN, Waterloo, IA, Springfield, OH, Kansas City and St. Louis, MO, Kansas City, KS and Waverly, NB to points in AR, IL, IA, ID, IN, KY, MN, MT, MI, MS, ND, NB, NY, OH, SD, TN, WA, MO & WI. Supporting shippers: Grain-Flo, Inc., P.O. Box 475, Heyworth, IL 61745; Dersco, Inc., P.O. Box 67, Watertown, WI 53094; Huss & Schlieper, Inc., 2230 Brush College Road, P.O. Box 949, Decatur, IL 62525; and Feed Mill and Grain Elevator Equipment, P.O. Box 11, Galesburg, IL 61401.

MC 145491 (Sub-4–3TA), filed July 10, 1980. Applicant: PIGGYBACK TRANSPORTATION SERVICE, INC., P.O. Box 662, Greenwood, IN 46142. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *General commodities,* (except household goods and Classes A and B explosives), between Bloomington and Indianapolis, IN on the one hand, and, on the other, rail ramps at Louisville, KY, Chicago, IL, and Indianapolis, IN. Restricted to traffic having an immediately prior or subsequent

movement in rail piggyback service. Supporting shippers: Otis Elevator Company, 1331 S. Curry Pike, Bloomington, IN 47401; Bridgeport Brass Company, P.O. Box 41519, Indianapolis, IN, 46241; RCA Corporation, Building 204–2, Route 38, Cherry Hill, NJ 08358; National Piggyback Services, Inc., P.O. Box 27176, Indianapolis, IN 46227.

MC 148146 (Sub-4–1TA), filed July 11, 1980. Applicant: MATHEWS TRUCKING CO., INC., 20100 Trentwood Court, Trenton, MI 48183. Representative: Edwin M. Snyder, 22375 Haggerty Road, Northville, MI 48167. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk), between the facilities of Detroit, Toledo & Ironton Railroad Company located at or near Brownstown Township, MI on the one hand, and, on the other, points within the State of MI. Restricted to shipments having immediate prior, or subsequent movement by rail. Supporting shipper: Detroit, Toledo & Ironton Railroad Co., One Parklane, Dearborn, MI 48126.

MC 124078 (Sub-4–27TA), filed July 11, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53201. Representative: Richard Prevette (address same as applicant). *Clay,* in bulk, in tank vehicles, from Andersonville, GA to Port St. Joe, FL. Supporting shipper: Allied Chemical Corp., P.O. Box 1139R, Morristown, NJ 07960.

MC 118838 (Sub-4–4TA), filed July 11, 1980. Applicant: GABOR TRUCKING, INC., RR 4, Detroit Lakes, MN 56501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Plastic articles and polystyrene products,* from the facilities of U. C. Industries, Inc. at Tallmadge, OH to points in MN, ND and SD. An underlying ETA seeks 90 days authority. Supporting shipper: United States Gypsum Co., 101 S. Wacker Drive, Chicago, IL 60606.

MC 110656 (Sub-4–1TA), filed July 10, 1980. Applicant: PARKER MOTOR FREIGHT, INC., 1505 Steele Avenue, S.W., Grand Rapids, MI 49507. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, Michigan 48226. 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 commodities requiring special equipment) serving Cadillac, MI, and its commercial zone, as an off-route point in connection with carrier's otherwise authorized operations. Supporting shippers: Rexair, Inc., 230 Seventh Street, Cadillac, MI 49601; Mitchell Corporation of Owosso, 123 W. Chipman, Owosso, MI 48867; Cadillac Metal Casters, Inc., 411 Seventh Street, Cadillac, MI 49601; Signaltone Corporation, NEFCO Div. Neiman Industries, Inc., 947 Frisbie, Cadillac, MI 49601; Cadillac Rubber & Plastics, Inc., 603 W. Seventh Street, Cadillac, MI 49601.

MC 142268 (Sub-4–2TA), filed July 9, 1980. Applicant: GORSKI BULK TRANSPORT, INC., 843 Central Avenue, Walkerville P.O. Box 2487, Windsor, Ontario N8Y 4S2. Representative: William H. Shawn, 1730 M Street NW., Suite 501, Washington, DC 20036. (1) *Malt beverages* in bulk, in tank vehicles, between Detroit, MI and Foglesville, PA; and (2) *De-ionized water,* in bulk, in tank vehicles, from Foglesville, PA to Detroit, MI. Supporting shipper: The Stroh Brewery Company, One Stroh Drive, Detroit, MI 48226.

MC 147636 (Sub-4–2TA), filed July 10, 1980. Applicant: LARRY E. HICKOX, d.b.a. LARRY E. HICKOX TRUCKING, Box 95, Casey, IL 62420. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Cleaning compounds and chemicals,* from the facilities of Continental Chemical Corporation at Terre Haute and Brazil, IN to Stockton, Oakland and Tracy, CA, Auburn, WA, Dallas and Ft. Worth, TX. An underlying ETA seeks 90 days authority. Supporting shipper: Continental Chemical Corporation, Box 994, 1316 Plum Street, Terre Haute, IN 47808.

MC 151136 (Sub-4–1TA), filed July 10, 1980. Applicant: ROBERT C. ILLINGWORTH d.b.a. CYCLE TRANSPORT, 1418 East lake Street, Minneapolis, MN 55407. Representative: William J. Gambucci, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55402. *Contract,* irregular: *Motorcycles, set-up, parts, accessories and supplies therefor,* from the facilities of Kawasaki Motors Corp. at or near Lincoln, NE to points in IL, IA, MN and WI, for the account of Kawasaki Motors Corp., U.S.A., an underlying ETA seeks 90 days authority. Supporting shipper: Kawasaki Motors Corp., U.S.A., P.O. Box 81607, Lincoln, NE 68501.

MC 118696 (Sub-4–21TA), filed July 9, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wicks, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Urethane foam and urethane foam products, carpet padding, and materials, equipment and supplies* used in the manufacture, and distribution and sale thereof (except in bulk), between the facilities of the Fairmont Corporation in Chicago, IL and its commercial zone, on the one hand, and, on the other, points in the state of CO and points in and east of the states of ND, SD, NE, KS, OK, and TX. Supporting shipper: Fairmont Corporation, 919 N. Michigan Avenue, Chicago, IL 60611.

MC 103798 (Sub-4–3TA), filed July 10, 1980. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Canned and preserved foodstuffs;* from Portland, OR and Markham and Aberdeen, WA to the facilities of Heinz U.S.A. at or near Tracy and Stockton, CA. Supporting shipper: Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 142891 (Sub-4–1TA), filed May 2, 1980. Applicant: A & H, INC., P.O. Box 346, Footville, WI 53537. Representative: Thomas J. Beener, 67 Wall Street, New York, NY 10005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Cheese, and cheese products transported in vehicles equipped with mechanical refrigeration units from th facilities of Grande Cheese Company at Brownsville, WI to points in IL, IN, KS and MO. Restricted to traffic originating at the named origin and destined to named destination. Supporting shipper: Grande Cheese Co., P.O. Box 67, Brownville, WI 53006.

MC 95876 (Sub-4–2TA), filed April 17, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). *Crushed stone* (except in bulk) from the facilities of Mustard Seed Stone and Materials, at or near Wheatland, WY, to points in AZ, CA, NV, OR and WA. Supporting shipper: Mustard Seed Stone and Materials, Vancouver, WA 98662.

Docket No. 150094 (Sub-4–2), filed January 28, 1980. Applicant: FRANK A. SUTTON, d.b.a. SUTTON TRANSPORT, P.O. Box 72, Elderon, Wisconsin 54429. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. *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 commodities requiring special equipment) between points in Clark, Langlade, Lincoln, Marathon, Portage, Taylor and Wood Counties, WI on the one hand, and, on the other hand, Green Bay and Milwaukee, WI, restricted to traffic having a prior or subsequent

movement by air carrier, under continuing contract(s) with Burlington Airfreight, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Burlington Northern Airfreight, Inc., 4965 South Howell Avenue, Milwaukee, Wisconsin 53207.

MC 50935 (Sub-4–1), filed January 8, 1980. Applicant: WOLVERINE TRUCKING CO., 1020 Doris Road, Pontiac, MI 48057. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48085. *Malt beverages* (1) between Milwaukee, WI on the one hand, and on the other, Perry, GA, with empty containers on return; (2) from Perry, GA to Newark, NJ, with empty containers on return. An underlying ETA seeks 90 days authority. Supporting shipper: Pabst Brewing Co., 917 W. Juneau Avenue, Milwaukee, WI 53201.

MC 141654 (Sub-4–1), filed May 20, 1980. Applicant: J. A. DADY, Box 40, Sisseton, SD 57262. Representative: J. Michael Dady, 4200 IDS Center, 80 South Eighth St., Minneapolis, MN 55402. *Butter*, from Sisseton, SD to St. Paul, MN. Supporting shipper: Landsberger Creamery & Produce, Inc., Sisseton, SD 57262.

MC 76266 (Sub-4–4TA), filed May 19, 1980. Applicant: ADMIRAL MERCHANTS MOTOR FREIGHT, INC, 215 South 11th Street, Minneapolis, Minnesota 55403. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minnesota. *Common; Regular; General Commodities*, except those of unusual value, classes A and B explosives, HHG as defined by the Commission, commodities in bulk, and those requiring special equipment. Serving the plant site of Olin Corporation located approximately 5.5 miles northwest of Peru, IN, and approximately 3 miles west of US Hwy 31, as an off-route point in connection with carrier's regular-route operations authorized herein. Serving the plant site of the Bethlehem Steel Corporation in Burns Harbor, Porter County, IN, as an off-route point in connection with said carrier's regular-route operations authorized herein from and to points in IL, IN, OH, and KY. The authority granted under the route next above is restricted to the transportation of shipments originating at, or destined to, the plant site of Bethlehem Steel Corporation in Burns Harbor, Porter County, IN. *General Commodities*, except those of unusual value, classes A and B explosives, HHG as defined by the Commission, commodities in bulk, and commodities requiring special equipment. Serving Sharpsville, IN, as an off-route point in connection with said carrier's regular-route operations authorized herein at Kokomo, IN. Serving Upland, IN, as an intermediate point in connection with carrier's regular-route operations authorized herein. Serving points in the Cincinnati, OH, Commercial Zone, as defined by the Commission, as intermediate or off-route points in connection with said carrier's regular-route operations authorized herein to and from Cincinnati, OH. *General Commodities*, except those of unusual value, HHG as defined by the Commission, and commodities in bulk, between Connersville, IN, and College Corner, OH, serving all intermediate points and the off-route point of Brownsville, IN: From Connersville over IN Hwy 44 to Liberty, IN, thence over US Hwy 27 to College Corner, and return over the same route. *General Commodities*, except those of unusual value, and HHG as defined by the Commission, between Cincinnati, OH, and College Corner, OH, serving all intermediate points: From Cincinnati over US Hwy 27 to College Corner, and return over the same route. The operations authorized next above as restricted against the transportation of commodities in bulk, in tank vehicles. *General Commodities*, except those of unusual value, classes A and B explosives, HHG as defined by the Commission, commodities in bulk, and those requiring special equipment. Between Cincinnati, OH, and Hamilton, OH, serving no intermediate points: From Cincinnati over US Hwy. 127 to Hamilton, and return over the same route. Between Hamilton, OH and Millville, OH, serving all intermediate points: From Hamilton over OH Hwy. 129 to Millville, and return over the same route. The service authorized under the commodity description next above is restricted against the transportation of traffic moving between Cincinnati, OH, and Hamilton, OH. Between Hamilton, OH, and Oxford, OH, serving all intermediate points: From Hamilton over OH Hwy. 177 to junction OH Hwy. 73, and thence over OH Hwy. 72 to Oxford, and return over the same route. Between junction OH Hwy. 177 and unnumbered Hwy (formerly OH Hwy. 130) and McGonigle, OH, serving all intermediate points: From junction OH Hwy. 177 and unnumbered Hwy. (formerly OH Hwy. 130) over unnumbered Hwy. to McGonigle, and return over the same route. Between Oxford, OH, and Richmond, IN, serving all intermediate points, and the off-route points of Boston and Kitchell, IN: From Oxford over US Hwy. 27 to Richmond, and return over the same route. Between Marion, IN, and Chicago, IL, serving the intermediate points of Converse, Peru, Plymouth, and Kokomo, IN: From Marion over IN Hwy 21 to Peru, IN, thence over US Hwy 31 to Plymouth, IN, thence over US Hwy. 30 to Valparaiso, IN, thence over IN Hwy. 130 to junction US Hwy. 6, thence over US Hwy. 6 to junction Alternate US Hwy. 30, and thence over Alternate US Hwy. 30 to Chicago, and return over the same route. From Marion over IN Hwy. 9 to junction US Hwy. 35, thence over US Hwy. 35 to Kokomo, IN, thence over US Hwy. 31 to Peru, IN, and thence over the above-specified route to Chicago, and return over the same route. *General Commodities*, except those of unusual value, classes A and B explosives, HHG as defined by the Commission, commodities in bulk, and those requiring special equipment. Between Marion, IN, and Anderson, IN, serving the intermediate point of Alexandria, IN, and the off-route points of Gas City, Hartford City, and Jonesboro, IN: From Marion over IN Hwy. 9 to Anderson, and return over the same route. Between Marion, IN and Muncie, IN, serving the intermediate points of Alexandria, Anderson, Chesterfield, Daleville, and Yorktown, IN: From Marion over the above-specified route to Anderson, IN, and thence over IN Hwy. 32 to Muncie, and return over the same route. Between Marion, IN, and Muncie, IN, serving no intermediate points, but serving the off-route points of Alexandria, Gas City, Hartford City, and Jonesboro, IN: From Marion over IN Hwy. 9 to junction IN Hwy. 28, thence over IN Hwy. 28 to junction US Hwy. 35, and thence over US Hwy. 35 to Muncie, and return over the same route. Between Marion, IN and Muncie, IN, serving the intermediate points of Gas City and Hartford City, IN, and the off-route points of Alexandria and Jonesboro IN: From Marion over IN Hwy. 21 to junction IN Hwy. 22, thence over IN Hwy. 22 to Hartford City, IN, and thence over IN Hwy. 3 to Muncie, and return over the same route. Between Richmond, IN, and Muncie, IN, serving no intermediate points: From Richmond over US Hwy. 35 to Muncie, and return over the same route. Between Muncie, IN and Connersville, IN, serving all intermediate points. From Muncie over IN Hwy. 3 to junction IN Hwy. 38, thence over IN Hwy. 38 to New Castle, IN, thence over IN Hwy. 103 to junction US Hwy. 40, thence over US Hwy. 40 to junction IN Hwy. 1, thence over IN Hwy. 1 to Connerville, and return over the same route. Between New Castle, IN, and Richmond, IN, serving all intermediate points: From New Castle over IN Hwy. 38 to Hagerstown, IN, thence over IN Hwy. 1 to Cambridge

City, IN, and thence over US Hwy. 40 to Richmond, and return over the same route. Alternate routes for operating convenience only: *General Commodities*, except those of unusual value, classes A and B explosives, HHG as defined by the Commission, commodities in bulk, and commodities requiring special equipment. Between Chicago, IL and junction IN Hwy. 49 and US Hwy. 30, serving no intermediate points: From Chicago over the Calumet-Tri-State Expressway to junction US Hwy. 41 and IN Hwy. 152, thence over US Hwy. 41 to junction US Hwy. 30, and thence over US Hwy. 30 to junction IN Hwy. 49, and return over the same route. Between Marion, IN, and Hartford City, IN, serving no intermediate points: From Marion over IN Hwy. 18 to junction IN Hwy. 3, and thence over IN Hwy. 3 to Hartford City, and return over the same route. Between Anderson, IN, and junction IN Hwys. 9 and 109, serving no intermediate points: From Anderson over IN Hwy. 109 to junction IN Hwy. 9, and return over the same route. Between Hagerstown, IN and Richmond, IN, serving no intermediate points, in connection with said carrier's regular-route operations authorized herein between Richmond, IN and Muncie, IN, and between New Castle, IN, and Richmond, IN: From Hagerstown over IN Hwy. 38 to Richmond, and return over the same route. Irregular routes: *Building Materials and Supplies, and Iron and Steel Articles*, between Oxford, OH, and points within 25 miles thereof, on the one hand, and, on the other, points in OH, and that part of IN south of US Hwy. 24 and east of US Hwy. 41, including points on the indicated portions of the Hwys. specified. *Prepared roofing and roofing material*, From Joliet, IL, to Marion, IN, with no transportation for compensation on return except as otherwise authorized. The operations authorized under the two commodity descriptions next above are restricted against the transportation of commodities in bulk, in tank vehicles. *General Commodities*, except HHG as defined by the Commission, commodities in bulk, and those requiring special equipment. Between points in OH and IN within 40 miles of Oxford, OH. *General Commodities*, except those of unusual value, HHG, as defined by the Commission, classes A and B explosives, commodities in bulk, and commodities requiring special equipment. Between Oxford, OH, on the one hand, and, on the other, points in OH within a radius of 50 miles of Oxford. *Iron and Steel Articles*, from the plant site of Jones & Laughlin Steel Corporation located in Putnam County, IL, to points in IN and OH: and *Materials, equipment, and supplies* used in the manufacture and processing of iron and steel articles, from points in IN and OH, to the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, IL. The operations authorized under the two commodity descriptions next above are subject to the following conditions: Said operations are restricted to the transportation of traffic originating at or destined to the named origins and destinations. Said operations are restricted against the transportation of commodities in bulk. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operation right. Regular: *General Commodities*, except articles of unusual value, HHG, as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment. Between Richmond, IN, and Dayton, OH: From Richmond over US Hwy. 40 to junction Interstate Hwy. 70, then over Interstate Hwy. 70 to junction OH Hwy. 49 then over OH Hwy. 49 to Dayton and return over the same route. The regular route authority granted above shall not be severable by sale or otherwise from the carrier's retained pertinent irregular route authority.

General commodities, except articles of unusual value, classes A and B explosives, HHG as defined by the Commission, commodities in bulk and those requiring special equipment, between Chicago, IL and Indianapolis, IN: From Chicago over Interstate Hwy 94 to junction Interstate Hwy 80, then over Interstate Hyw 80 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Indianapolis, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. Regular routes: *MC-F-14082*, general commodities, except those of unusual value, and except those explosives, HHG (when transported as a separate and distinct service, in connection with so-called "household movings"), commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between Chicago, IL and South Haven, MI, with service at all intermediate points and the off-route points of Baroda, Derby and Three Oaks, MI: From Chicago, IL, over US Hwy 12 to junction of Interstate Hwy 94, then over Interstate Hwy 94 (formerly US Hwy 12) to St. Joseph, MI, then over US Hwy 31 to South Haven, and return over the same route. From Chicago, IL, over US Hwy 20 to junction IN Hwy 212, then over IN Hwy 212 to junction US Hwy 12, then over US Hwy 12 to junction interstate Hwy 94 then over Interstate Hwy to St. Joseph, and then to South Haven as specified above, and return over the same route. Between South Bend, IN and Kalamazoo, MI, with service at all intermediate points, and the off-route points of Berrien Center, Keeler, Lawton, Mattawan and Milburg, MI: From South Bend, IN, over US Hwy 31 to Benton Harbor, MI, then over Interstate Hwy 94 (formerly US Hwy 12) to Kalamazoo, MI, and return over the same route. Between Benton Harbor, MI and Kalamazoo, MI, with service at all intermediate points. From Benton Harbor, MI, over unnumbered Hwy via Sodus, MI, to Eau Claire, MI, MI Hwy 62 to Dowagiac, MI MI Hwy 51 (formerly MI Hwy 40) to junction Interstate Hwy 94 (formerly Hwy 12), then over Interstate Hwy 94 to Kalamazoo, MI, and return over the same route. Between South Bend, IN and Gary, IN, as an alternate route for operating convenience only, with no service between the termini or intermediate points: From South Bend, IN, over US Hwy 20 to Gary, IN, and return over the same route. Irregular routes: General commodities, except those of unusual value, and except livestock, dangerous explosives, HHG as defined in Practices of Motor Common Carriers of HHG, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment. Between points and places in the Chicago, IL, Commercial Zone. Regular routes: General commodities, except those of unusual value, dangerous explosives, HHG as defined in Practices of Motor Common Carriers of HHG, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment. Serving the site of Upjohn Company plant located approximately four and one-half miles southeast of Kalamazoo, MI, as an off-route point in connection with carrier's regular-routes to and from Kalamazoo. Serving points and places within two miles of Kalamazoo, MI, as intermediate or off-route points in connection with carrier's regular-route operations authorized in Certificate No. MC 1733 and Sub number thereunder. General commodities, except those of unusual value, and except dangerous explosives, HHG as defined in Practices of Motor Common Carriers of HHG, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, over alternate routes for operating convenience only in connection with

carrier's regular-route operations. Between Niles, MI and Junction US Hwy 12 and Interstate Hwy 94, with no service at intermediate points: From Niles, MI, over US Hwy 12 (formerly MI Hwy 60) to junction US Hwy 12 and Interstate Hwy 94, and return over the same route. Between Niles, MI, and Dowagiac, MI, with no service at intermediate points: From Niles, MI, over MI Hwy 51 (formerly MI Hwy 40) to Dowagiac, MI, and return over the same route. Between South Haven, MI, and Watervliet, MI, with no service at intermediate points: From South Haven, MI, over MI Hwy 140 to Watervliet, MI, and return over the same route. Between Watervliet, MI, and Niles, MI, with service at intermediate points: From Watervliet, MI, over MI Hwy 140 to junction US Hwy 31 to Niles, MI, and return over the same route. Between Benton Harbor, MI and Junction US Hwy 31 and MI Hwy 139, with no service at intermediate points: From Benton Harbor, MI, over MI Hwy 139 to junction US Hwy 31 and return over the same route. Authority sought in this application is intended to be tacked with the applicant's current irregular route authority in MC–76266 and the subs thereto. Applicant also intends to interline with other carriers at interchange points of Chicago, Illinois. Supporting shippers: There are 18 supporting shippers.

MC 148166 (Sub-4–1TA), filed May 23, 1980. Applicant: H. DERBY TRANSPORT, Grenfell, Saskatchewan, SOG 2BO. Representative: Peter W. Glendinning. Barrister and Solicitor, 2042 Cornwall Street, Regina, Saskatchewan, S4P 2K5. Common: *Regular: Fertilizer and fertilizer ingredients,* in bulk, in tank vehicles, Supporting shipper: Martex Incorporated. P.O. Box 159, Chanhassen, MN 55317. From US/Canada border at Portal and North Gate, ND to points in MN.

MC 133689 (Sub-4–20TA), filed June 2, 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. Common, irregular: *Lead products, equipment, materials and supplies used in the manufacture and distribution thereof (except commodities in bulk),* between points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas on the one hand, and, on the other, Murfreesboro, TN. An underlying ETA seeks 90 days authority. Supporting shipper: Perfect Equipment Corporation, 855 Scott Street, Murfreesboro, TN 37130.

MC 144121 (Sub-4–1TA), filed January 29, 1980. Applicant: LARRY'S EXPRESS, INC., 720 Lake St., Tomah, WI 54660. Representative: James A. Spiegel, Attorney, Olde Town Office Park, 6425 Odana Rd, Madison, WI 53719. *Heating units and materials, equipment and supplies* used in the manaufacture and distribution of such commodities between Chippewa Falls, WI, and points in the United States (except AK and HI). Restricted to transportation originating or terminating at the facilities of Chippewa Welding, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Basic Energy Systems, Inc., 1647 N.E. 58th Ave., Des Moines, IA 50313.

MC 133689 (Sub-4–4TA), filed June 5, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE, Blaine MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Trailer axles, related parts and accessories;* from Kenton, OH to Sioux City, IA. Supporting shipper: Rockwell International, 2135 W. Maple Rd., Troy, MI 48084.

THE FOLLOWING PROTESTS WERE FILED IN REGION 5. SEND PROTESTS TO: CONSUMER ASSISTANCE CENTER, INTERSTATE COMMERCE COMMISSION, POST OFFICE BOX 17150, FORT WORTH, TX 76102.

MC 13547 (Sub-5–3TA), filed July 9, 1980. Applicant: LEONARD BROTHERS TRANSPORT CO. INC., 1528 West 9th Street, Kansas City, MO 64101. Representative: Joe M. Lock, 1528 West 9th Street, Kansas City, MO 64101. *Paper, paper products, wallboards,* from the commercial zone of Kansas City, KS-Kansas City, MO to all points in ARK, KS, MO, OK restricted to traffic having an immediate prior movement by rail. Supporting shipper: Boise Cascade Corporation, P.O. Box 2885, Portland, OR 97208.

MC 29910 (Sub-5–39TA), filed July 8, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, (same address as applicant). *Chemicals (except in bulk),* from Houston, TX to points in the United States in and east of MN, IA, MO, AR and LA. Supporting shipper: Stinnes Oil & Chemical, 6922 Old Katy Road, Houston, TX 77024.

MC 59117 (Sub-5–1TA), filed July 8, 1980. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Barite, in bulk, in tank vehicles,* from Washington County, MO and Hot Springs, AR to points in KS, NM, OK, and TX. Supporting shipper: Dresser Industries, Inc., 601 Jefferson St., P.O. Box 6504, Houston, TX 77005.

MC 106398 (Sub-5–39TA), filed July 8, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, OK 74120. *Metal products and accessories* from: Alton, AL and New Orleans, LA. To: Points in OH, IN, IL, PA, NC, SC, KY, TN, NY, NJ, GA, AL, TX and LA. Supporting shipper: Toyoda America, Inc., 940 Alton Parkway, Alton, AL 35210.

MC 114273 (Sub-5–23TA), filed July 8, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as above). *Empty metal containers and lids,* from Milwaukee, WI to Omaha, NE, serving points in their respective commercial zones. Supporting shipper(s): Schlitz Brewing Company, 7620 S. 10th St., Oak Creek, WI.

MC 116077 (Sub-5–7TA), filed July 9, 1980. Applicant: DSI TRANSPORTS, INC., 5851 San Felipe/Suite 800, Houston, TX 77057. Representative: J. C. Browder, Manager of Traffic-Operations, DSI Transports, Inc., 5851 San Felipe/Suite 800, Houston, TX 77057. *Fish oil, in bulk, in tank vehicles,* from Empire, LA to Avondale, LA. Supporting shipper: ADM Corporation, Post Office Box 15166, Minneapolis, MN 55415.

MC 135953 (Sub-5–4TA), filed June 30, 1980. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Such commodities as are dealt in by drug, variety, and food stores, and materials, supplies and equipment used by manufacturers of such commodities (except commodities in bulk),* from Andover, MA to AR, CA, GA, IL, KS, MD, MI, MN, MO, NC, OH, PA, TN, TX, and VA; from St. Paul, MN to AR, GA, IL, IN, KY, KS, MA, MI, MO, MD, NE, NJ, NY, OH, OK, PA, TN, TX, VA, and WV; from Santa Monica, CA and La Mirado, CA to Andover, MA and La Grange Park, IL; from La Grange Park, IL to La Mirado, CA and Andover, MA. Supporting shipper: The Gillette Company, Prudential Tower Building, Boston, MA 02199.

MC 140665 (Sub-5–20TA), filed July 7, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: John V. Barry, P.O. Box 4208, Springfield, MO 65804. *Such commodities as are used in the erection*

or operation of electric generating facilities (except commodities because of their size and weight require special equipment, and commodities in bulk), between points in the United States, on the one hand, and, on the other, points in WA; restricted to traffic originating at or destined to electric generating facilities operated in connection with Washington Public Power Supply System. Supporting shipper: Washington Public Power Supply System, P.O. Box 968, Richland, WA 99352.

MC 142508 (Sub-5–27TA), filed July 7, 1980. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, NE 68137. *Cleaning compounds, lubricants, anti-static fabric softeners, coffee filters, chemical dispensing systems, and spray and agitation cleaners,* from the facilities utilized by Economics Laboratory, Inc., South Holland, IL to points in CO, IA, KS, MO, NE, and SD. Supporting shipper: Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102.

MC 143179 (Sub-5–4TA), filed July 9, 1980. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant). *Contract;* Irregular. *New furniture parts,* from Council Bluffs, IA to Kansas City, MO. Supporting shipper: Central Woodworking, Inc., 101 South 30th Street, Council Bluffs, IA 51501.

MC 145441 (Sub-5–19TA), filed July 8, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey, P.O. Box 5130, North Little Rock, AR 72119. *General commodities, (except commodities in bulk),* from the facilities of Ohio Valley Shippers Association, Inc. in OH, KY, and IN to points in the U.S. Supporting shipper: Ohio Valley Shippers Association, 1428 Dalton St., Cincinnati, OH 45214.

MC 149157 (Sub-5–3TA), filed July 9, 1980. Applicant: STYLE CRAFT TRANSPORT, INC., Highway 71 South, Milford, IA 51351. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502. *Contract;* Irregular. *Wood cabinet parts,* from Catawissa, PA to Clear Lake, IA. Supporting shipper: Fieldstone Cabinet Company, 9 Plaza Drive, Clear Lake, IA 50428.

MC 150330 (Sub-5–6TA), filed June 30, 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, *household appliances, and parts and accessories thereof; boxes of television sets; recorders (tape or wire) and accessories thereof;* between the facilities of General Electric Distribution Center at Little Rock, AR on the one hand, and to points in the states of TX, OK, and NM on the other hand. Supporting shipper: General Electric Company, 6901 Lindsey Road, Little Rock, AK.

MC 151162 (Sub-5–1TA), filed July 8, 1980. Applicant: LOWELL E. CAWOOD d.b.a. CAWOOD PRODUCE, Post Office Box 83, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Candy and confectionery* from the facilities of Bortz Chocolate Company, at or near Reading, PA to points in CA, LA, MN, TN and TX. Supporting shipper: Bortz Chocolate Company, 1414 Moss Street, Reading, PA 19604.

MC 151162 (Sub-5–2TA), filed July 8, 1980. Applicant: LOWELL E. CAWOOD, d.b.a. CAWOOD PRODUCE, Post Office Box 83, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Candy and confectionery products* from the facilities of R. M. Palmer Candy Company, at or near West Reading, PA to points in the United States (except AL, CT, DE, FL, GA, MA, MD, ME, MT, NC, NH, NJ, NY, OR, RI, SC, VA, VT, WA, WV and WY). Supporting shipper: R. M. Palmer Candy Company, Second & Franklin Streets, West Reading, PA 19602.

MC 151208 (Sub-5–1TA), filed July 8, 1980. Applicant: D. D. CASKEY, d.b.a. DUTCH'S ENTERPRISES, Route 1, Box 244A, Watts, OK 74964. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Trailers designed to be drawn by passenger automobiles in initial and secondary movements and buildings in sections mounted on wheeled undercarriages and mobile homes to be drawn by vehicles equipped with hitchball connectors,* from Grove, OK, to all points and places in MO, AR, NE, and KS, and (2) from MN to Grove, OK. Supporting shipper: Grove Mobile Home Sales, Grove, OK 74344.

MC 151226 (Sub-5–1TA), filed July 8, 1980. Applicant: MACK'S WRECKER SERVICE AND AUTO REPAIR, INC., 110 N. 11th Street, West Memphis, AR 72301. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Wrecked and/or disabled motor vehicles and trailers (other than house trailers or trailers designed to be drawn by passenger automobiles by hitch ball connector) and replacement vehicles and trailers therefor, by the use of wrecker equipment only* between West Memphis, AR; Crawfordsville, AR; and Memphis, TN; and the respective commercial zones thereof, on the one hand, and, on the other, points in the United States (except AK and HI).

MC 150948 (Sub-5), filed June 2, 1980. Applicant: NOBLE PROPERTIES, INC., 12107 Conrad Road, Austin, TX 78759. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Contract; Irregular. *Merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics,* between points in the following counties in TX: Anderson, Angelina, Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Brooks, Burleson, Burnet, Caldwell, Calhoun, Camp, Cameron, Cass, Chambers, Cherokee, Collin, Colorado, Comal, Cooke, Coryell, Dallas, Delta, Denton, Dewitt, Dimmitt, Duval, Edwards, Ellis, Falls, Fannin, Fayette, Ft. Bend, Franklin, Freestone, Frio, Galveston, Gillespie, Goliad, Bonzales, Grayson, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Mays, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleburg, Lamar, Lampasas, Lasalle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Llano, McLennan, McMullen, Madison, Marion, Mason, Matagorda, Maverick, Medina, Menard, Milam, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Parker, Polk, Rains, Real, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Scjleicher, Shelby, Smith, Somervell, Starr, Sutton, Tarrant, Titus, Travis, Trinity, Tyler, Upshur, Uvalde, Valverde, Van Zandt, Victoris, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Wise, Wood, Zapata, and Zavala. Interlining with other carriers is intended. Supporting shipper: Avon Products, Inc., 83rd and College, Kansas City, MO 64141.

Republication

MC 150948 (Sub-5–1TA), filed June 2, 1980. Applicant: NOBLE PROPERTIES, INC., 12107 Conrad Road, Austin, TX 78759. Representative: Frank W. Taylor, Jr., Suite 600, 1221 BAltimore Avenue, Kansas City MO 64105. *Contract;* Irregular. *Merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics,* between points in the following counties in TX: Anderson, Angelina, Aransas, Atascosa,

Austin, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Brooks, Burleson, Burnet, Caldwell, Calhoun, Camp, Cameron, Cass, Chambers, Cherokee, Collin, Colorado, Comal, Cooke, Coryell, Dallas, Delta, Denton, Dewitt, Dimmitt, Duval, Edwards, Ellis, Falls, Fannin, Fayette, Ft. Bend, Franklin, Freestone, Frio, Galveston, Gillespie, Goliad, Bonzales, Grayson, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Mays, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleburg, Lamar, Lampasas, Lasalle, Lavaca; Lee, Leon, Liberty, Limestone, Live Oak, Llano, McLennan, McMullen, Madison, Marion, Mason, Matagorda, Maverick, Medina, Menard, Milam, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Parker, Polk, Rains, Real, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Scjleicher, Shelby, Smith, Somervell, Starr, Sutton, Tarrant, Titus, Travis, Trinity, Tyler, Upshur, Uvalde, Valverde, Van Zandt, Victoris, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Wise, Wood, Zapata, and Zavala. Interlining with other carriers is intended. Supporting shipper: Avon Products, Inc., 83rd and College, Kansas City, MO 64141.

Republication

MC 150950 (Sub-5–1TA), filed June 2, 1980. Applicant: DALLAS CONSOLIDATORS, INC., 2300 East Pioneer Drive, Irving, TX 75061. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City MO 64105. Contract; Irregular. *Merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics,* between points in the following counties in TX: Anderson, Andrews, Angelina, Archer, Armstrong, Bailey, Baylor, Bell, Borden, Bosque, Bowie, Brewster, Briscoe, Brown, Callahan, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, Dickens, Donley, Eastland, Ector, Ellis, El Paso, Erath, Falls, Fannin, Fisher, Floyd, Foard, Franklin, Freestone, Gaines, Garza, Glasscock, Gray, Grayson, Gregg, Hale, Hall, Hamilton, Hansford, Hardman, Harrison, Hartley, Haskell, Hemphill, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Iron, Jack, Jeff Davis, Johnson, Jones, Kaufman, Kent, King, Knox, Lamar, Lamb, Lampasas, Leon, Limestone, Lipscomb, Loving, Lubbock, Lynn, McCulloch, McLennan, Marion, Martin, Midland, Milam, Mills, Mitchell, Montague, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Ochiltree, Oldham, Palo Pinto, Panola, Parker, Parmer, Pecos, Potter, Presidio, Rains, Randall, Reagan, Red River, Reeves, Roberts, Robertson, Rockwell, Runnels, Rusk, Sabine, San Augustine, San Saba, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Stephens, Sterling, Stonewall, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Trinity, Upshur, Upton, Van Zandt, Ward, Wheeler, Wichita, Wilbarger, Winkler, Wise, Wood, Yoakum, and Young. Interlining with other carriers is intended. Supporting shipper: Avon Products, Inc., 83rd and College, Kansas City, MO 64141.

Republication

MC 150985 (Sub-5–1TA), filed June 9, 1980. Applicant: KEITH LANKFORD d.b.a. K. TRUCKING, Rural Route No. 4, Farifield, IA 52556. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Buildings and Component Parts,* from WA, IA to points in IL, IN, MN, MO and WI. Supporting shipper: Richard V. Willmarth, Traffic Supervisor-Rates & Routing, Growmark, Inc., 1701 Towanda Avenue, Bloomington, IL 61701.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 133965 (Sub-6–2TA), filed July 7, 1980. Applicant: CALZONA TRANSPORTATION, INC., 842 S. 59 Avenue, Phoenix, AZ 85034. Representative: William B. O'Morrow, P.O. Box 6558, Phoenix, AZ 85005. *Cottonseed oil,* in bulk, in tank vehicles, from Phoenix, AZ to Los Angeles, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Baker Commodities, 4020 Bandini Blvd, Los Angeles, CA 90023.

MC 60189 (Sub-6–1TA), filed July 1, 1980. Applicant: CHAMBERS MOVING & STORAGE CO., 301 S. 4th Ave., Phoenix, AZ 85003. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Household goods and personal effects,* between points in AZ and that portion of CA lying in and south of the counties of San Bernardino, Kern and San Luis Obispo, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Penn Van & Storage, 1610 N. Penn Way, Santa Ana, CA and May Transfer & Storage, 2896 Metropolitan Place, Pomona, CA 91767.

MC 141033 (Sub-6–2TA), filed July 2, 1980. Applicant: CONTINENTAL CONTRACT CARRIER CORP., P.O. Box 1257, City of Industry, CA 91749. Representative: Harris L. Rabins (same as applicant). *Foodstuffs and pet foods,* (except commodities in bulk), from the facilities of Ralston Purina Company at or near Flagstaff, AZ to points in CA South of Inyo, Monterey, Kings and Tulare Counties, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 136605 (Sub-6–12TA), filed July 2, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Coated and Wrapped pipe,* from the facilities of Beall Pipe and Tank, Inc., located at or near Portland, OR to points in the states of CO and WY, for 180 days. Supporting shipper: Beall Pipe Inc., 12005 N. Burgard St., Portland, OR 97203.

MC 136605 (Sub-6–13TA), filed July 2, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Plaster,* from Great Falls, MT to Salt Lake City, UT, for 180 days. Supporting shipper: Robinson Insulation Company, Box 1419, Great Falls, MT 59403.

MC 133478 (Sub-6–1TA), filed July 7, 1980. Applicant: DG TRANSPORT, INC., P.O. Box 25448, Portland, OR 97225. Representative: Peter H. Glade and Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97258. *Contract carrier,* irregular routes: *Doors, veneer* and *lumber* between the facilities of Nicolai Company at or near Portland and Springfield, OR and all points in the United States (except AK and HI), for the account of Nicolai Company, for 270 days. Supporting shipper: Nicolai Company, P.O. Box 17215, Portland, OR 97217.

MC 151191 (Sub-6–1TA), filed July 1, 1980. Applicant: ESPENSCHIED TRANSPORTATION CORPORTATION, 322 South 600 East, Centerville, UT 84014. Representative: Raymond M. Kelley, Thompson and Kelley. 450 Capitol Life Center, Denver, CO 80203. *Contract carrier,* irregular routes: (1) *Such commodities as are dealt in or used by retail department stores* and (2) *materials, supplies and equipment* used in the manufacture, distribution,

warehousing and sale of the commodities named in (1) above, between points in ID, MT, NV, UT, WA and WY under continuing contract(s) with J. C. Penney Co., Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: J. C. Penney Co., Inc., 1301 Avenue of the Americas, Floor Number 37, New York, NY 10009.

MC 151045 (Sub-6–1TA), filed July 3, 1980. Applicant: BRUCE PLATT, d.b.a. GOLDEN EAGLE EXPRESS, 419 East Jefferson Road, No. 31, Cheyenne, WY 82001. Representative: Thomas A. Nicholas, Hirst & Applegate, 200 Boyd Building, Cheyenne, WY 82001. *Contract carrier,* irregular routes: *Beer,* from, to or between points in TX, CO, WY, for 180 days. Supporting shipper: Orrison Distributing, Inc., 1111 Dunn Ave., Cheyenne, WY 82001.

MC 151217 (Sub-6–1TA), filed July 8, 1980. Applicant: JOHN WILLIAM HART, d.b.a. HART TRUCKING, 1920 Kathryn Court, Bakersfield, CA 93308. Representative: Donald R. Hedrick, P.O. Box 88, Norwalk, CA 90650. *Contract carrier,* irregular routes: *Pump parts, coated or not coated with rubber; and pipe and pipe fitting rubber lined,* between Lodi, CA on the one hand, and Colorado Springs, CO, Denver, CO and Salt Lake City, UT on the other hand, for the account of Holz Rubber Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Holz Rubber Company, 1129 South Sacramento St., Lodi, CA 95240.

MC 141548 (Sub-6–11TA), filed July 7, 1980. Applicant: INTERIOR TRANSPORT, INC., P.O. Box 3347 TA, Spokane, WA 99220. Representative: George H. Hart, Hart, Allison, Davis & Baldwin, 1100 IBM Building, Seattle, WA 98101. (1) *Buildings, building sections, and materials and supplies* used in the construction and erection of buildings; and (2) *building materials and steel and iron articles,* restricted in (1) and (2) above to the transportation of shipments originating at the facilities of Inryco, Inc., Milwaukee, WI to points in AZ, CA and NV, for 270 days. Supporting shipper: Inryco, Inc., 4101 West Burnham Street, Milwaukee, WI.

MC 147622 (Sub-6–1TA), filed July 7, 1980. Applicant: LOUIS J. BARBAGLIA d.b.a. L J B FREIGHT TRANSPORT, 1346 East Taylor Street, San Jose, CA 95133. Representative: Louis J. Barbaglia (same address). *Contract carrier,* irregular routes: *Freight all kinds,* in containers, with or without chassis, or in highway trailers; or chassis, empty, stacked or single/tandem, with prior or subsequent movement by ocean carrier, between points in CA, OR, and WA. For the account of Transpacific Transportation for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Transpacific Transportation, 650 California Street, San Francisco, CA.

MC 151070 (Sub-6–2TA), filed July 3, 1980. Applicant: A. CLYDE LANCASTER, Star Route 1, Afton, WY 83110. Representative: James E. Phillips, 822 Main Street, P.O. Box 123, Evanston, WY 82930. *Coal,* between points and places in Lincoln County, WY, moving interstate commerce via ID, for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper: Star Valley Cheese Corporation, Thayne, WY 83110.

MC 52709 (Sub-6–14TA), filed July 3, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). *Heating or power boilers, and materials, equipment, and supplies used in the installation and maintenance of heating or power boilers,* from the facilities of Johnston Boiler Co., at or near Ferrysburg, MI, to points in AZ, CA, CO, ID, IL, IN, IA, KS, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, and WY, for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper: Johnston Boiler Co., 300 Pine St., Ferrysburg, MI 49409.

MC 52709 (Sub-6–15TA), filed July 7, 1980. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). *Alcoholic liquors and wines* (except in bulk), from points in IN, KY, NJ, NY, PA and OH, to Cheyenne, WY, for 270 days. Supporting shipper: Wyoming Liquor Commission, State of Wyoming, Cheyenne, WY 82002.

MC 148737 (Sub-6–3TA), filed July 7, 1980. Applicant: SUNSET EXPRESS CORP., 3665 West 1987 South, Salt Lake City, UT 84104. Representative: Carl I. Sundeanus (same as applicant). (1) *Wooden kitchen cabinets,* from the facilities of Olympia Sales Co. at Salt Lake City, UT to points in AZ, CA and CO, and (2) *equipment, materials and supplies* used in the manufacturer of (1) above, from OR and WA to the facilities of Olympia Sales Co. located at Salt Lake City, UT. Restricted to shipments originating from or destined to the facilities of Olympia Sales Co., for 270 days. Supporting shipper: Olympia Sales Co., 1537 S. 700 W., Salt Lake City, UT 84104.

MC 136818 (Sub-6–9TA), filed July 7, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, AZ 85008. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Pipe, pipe fittings, conduit, couplings, building materials,* and *materials and supplies used in the installation thereof,* from the facilities of CertainTeed Corporation at McPherson, KS, to points in AZ, CO, and NM, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: CertainTeed Corporation, 1400 Union Meeting Road, Blue Bell, PA 19422.

MC 136897 (Sub-6–10TA), filed July 7, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. *Contract carrier,* Irregular routes: *Plastic containers,* from Dallas, TX to Tempe, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Aloe Vera Products, P.O. Box 28211, Tempe, AZ 85282.

MC 142909 (Sub-6–1TA), filed July 2, 1980. Applicant: TIMBER TRUCKING, INC., 35 South 600 West, Salt Lake City, UT 84101. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Wrought iron pipe and fittings,* from Portland, OR to Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Northwest Pipe & Casing, P.O. Box 38, Clackamas, OR 97015.

MC 143328 (Sub-6–4TA), filed July 7, 1980. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherlund, Esq., Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave. NW., Washington, DC 20412. *Alcoholic Beverages* from Portland, OR to points in AZ, CA, CO, ID, IL, MT, NE, NV, NM, ND, TX, UT, WA, and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Potter Distilleries, Inc., 18700 N.E., San Rafael Rd., Portland, OR 97230.

MC 112989 (Sub-6–7TA), filed July 7, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). *Scrap paper,* from Boise, ID, and Kennewick, WA to Newberg, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Publishers Paper Company, 6637 S.E. 100th Ave., Portland, OR 97266.

MC 112989 (Sub-6–8TA), filed July 3, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). *Aluminum and aluminum articles,* from the facilities of Arizona Aluminum Co.

at or near Phoenix, AZ, to points in CA, CO, OR, TX, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Arizona Aluminum Company, P.O. Box 6736, Phoenix, AZ 85005.

MC 116544 (Sub-6–11TA), filed July 7, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Doors, glazed or unglazed, finished or unfinished* from Tacoma, WA to points in AZ, CA, CO, ID, KS, LA, MT, NE, NV, NM, OK, OR, TX, UT and WY, for 270 days. Supporting shipper: West Coast Door, Inc., 3102 S. Pine St., Tacoma, WA 98409.

MC 151132 (Sub-6–1TA), filed July 3, 1980. Applicant: AMERICAN WESTERN TRANSPORT, INC., P.O. Box 20622, Salt Lake City, UT 84120. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005. *Rubber, rubber chemicals, and materials, equipment, and supplies* used in the manufacture and repair of pollution control equipment (except commodities in bulk), between points in AZ, CA, CO, ID, LA, MT, NV, NM, OR, TX, UT, WA and WY. Restricted to the transportation of traffic originating at or destined to the facilities of Rubber Engineering Division of Envirotech Corporation, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Rubber Engineering, Div. of Envirotech Corp., Salt Lake City, UT 84125.

MC 52793 (Sub-6–8TA), filed July 3, 1980. Applicant: BEKINS VAN LINES CO.—NEW PRODUCTS DIVISION, 3090 Via Mondo, Compton, CA 90221. Representative: Patricia M. Schnegg, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Shoes* from Portland, OR to Buena Park, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: J. C. Penney, Post Office Box 4999, Buena Park, CA.

MC 11722 (Sub-6–3TA), filed July 3, 1980. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 NE Weidler Street, Portland, OR 97232. *Cans and can ends, iron or steel,* between facilities of American Can Company at or near Salem, OR, on the one hand, and on the other, points, in UT, for 270 days. Supporting shipper: American Can Company, 333 Gellert Blvd., Daly City, CA 94015.

MC 41932 (Sub-6–1TA), filed July 9, 1980. Applicant: BROWNING FREIGHT LINES, INC., 650 South Redwood Road, Salt Lake City, UT 84104. Representative: Ben D. Browning, 1321 S. E. Water Avenue, Portland, OR 97214. *General Commodities and class A and B explosives* (except commodities in bulk, in tank vehicles, commodities which by reason of size and weight require special equipment, household goods as defined by the Commission or commodities of unusual value) serving the mine and plantsite of the Freeport Gold Company at Jarritt Canyon, NV as an off-route point in connection with carrier's presently authorized regular route operation over NV State Hwy 51 between Elko, NV and Mountain Home, ID for 270 days. An underlying ETA seeks 120 days authority. Also requested is authority to tack and to interline. The tacking point is Mountain Home, ID and the interlining points are Mountain Home, ID and Elko, NV. Supporting shipper: Davy McKee Corporation, 2700 Campus Drive, San Mateo, CA 94403.

MC 97977 (Sub-6–1TA), filed July 9, 1980. Applicant: CARTAGE SERVICE, INC., 2437 East 14th Street, Los Angeles, (Vernon), CA 90021. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *General commodities (except Class A and B explosives and commodities in bulk)* having an immediately prior or subsequent movement in rail trailer on flat car service between railroad trailer on flat car ramp yards in CA, on the one hand, and, on the other, points in CA, for 270 days. Supporting shippers: There are 5 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 136605 (Sub-6–14TA), filed July 9, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Mud or compounds, gas or oil well drilling, or gas or oil well drilling mud treating from compounds or additives in bags or barrels,* from Gascoyne, ND to points in CA, OR, WA (representative points, Long Beach, CA, Portland, OR and Kent, WA, for 270 days. Supporting shipper: IMCO Services, a Division of Halliburton Company, 2400 West Loop South, Houston, TX 77027.

MC 110391 (Sub-6–1TA), filed July 3, 1980. Applicant: CHESTER A. DEYOUNG, d.b.a. DEYOUNG TRANSFER & STORAGE CO., 214 E. Park St., Livingston, MT 59047. Representative: Chester A. Deyoung (same as applicant). *Common carrier,* regular route: *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 the use of special equipment) between Livingston, MT and West Yellowstone, MT from Livingston, MT to Bozeman, MT over Interstate Hwy 10, then to West Yellowstone, MT over US Hwy 191 and return over the same route, serving no intermediate points, for 270 days. Supporting shipper: Dan Dailey Fly Shop, 209 W. Park St., Livingston, MT 59047.

MC 147694 (Sub-6–1TA), filed July 9, 1980. Applicant: HEK INCORPORATED, d.b.a. ELLIOTT BAY SERVICE TRANSFER, P.O. Box 88994, Seattle, WA 98188. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. (1) *General commodities,* except Classes A and B explosives, and (2) *empty trailers and/or empty cargo containers* between points in OR and WA, restricted to shipments having a prior or subsequent movement by water for 270 days. An underlying ETA seeks 1230 days authority. Supporting shipper: Totem Ocean Trailer Express, Inc., P.O. Box 24908, Seattle, WA 98124.

MC 151094 (Sub-6–1TA), filed July 9, 1980. Applicant: I–GO VAN & STORAGE, INC., 3747 Gilmore Ave., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. *Welding bars, rods or wire (welding electrodes) iron or steel in packages* between Bakersfield, CA and points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Chemetron Corp., 4601 A Grissom, Bakersfield, CA 93309.

MC 139906 (Sub-6–26TA), filed July 8, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Mr. Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Clay and processed clay in bags and containers* from the facilities of Engelhard Minerals and Chemicals Corporation, at or near Attapulgus, McIntyre, Oconee, Macon, Valdosta and Atlanta, GA to points in the states of MN, MI, WI, IL, IN, MO, LA, TX, PA, OH, MA, CT, RI, NY, NJ for 270 days. Applicant seeks underlying ETA authority for 120 days. Supporting shipper: Englehard Minerals & Chemicals Corp., Menlo Park, Edison, NJ 08817.

MC 139906 (Sub-6–27TA), filed July 8, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Mr. Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Electric storage batteries and parts, materials, equipment and supplies used in the*

manufacture, sale and distribution of electric storage batteries (except in bulk) between the facilities of E.S.B. Inc. Division of Exide Corporation, at or near Fairfield, CT; Buffalo, NY; Allentown, PA; Los Angeles, CA; Dallas, TX; Logensport, IN; Denver, CO; Memphis, TN; Burlington, IA; Atlanta, GA; Minneapolis, MN; Omaha, NE: San Jose, CA; Richmond, KY; Sumter, SC; Raleigh, NC; Racine, WI; Richmond, VA; Kansas City, MO; Montebello, CA; and Texarkana, TX; on the one hand, and, on the other, points in the U.S. (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: E.S.B. Inc., Division of Exide Corporation, 101 Gibralter Rd., Horsham, PA 19044.

MC 139906 (Sub-6–28TA), filed July 7, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Mr. Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Such commodities as are produced by manufacturers of urethane foam, urethane foam products, fiberglass or fiberglass products* from Forney, TX, to Athens, GA, Hartford City, IN, Grand Island, NE, Cortland, NY, and Lewistown, PA for 270 days. Applicant seeks underlying ETA authority for 120 days. Supporting shipper: INSUL-FAB OF TEXAS, P.O. Box 999, Forney, TX 75126.

MC 147832 (Sub-6–2TA), filed: July 8, 1980. Applicant: JIM EDDLEMAN, d.b.a. J & J CATTLE COMPANY, 3395 Wright Street, Wheat Ridge, CO 80033. Representative: John H. Lewis, the 1650 Grant Street Bldg., Denver, CO 80203. *Meats, meat products and meat by-products, and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk). From the facilities of Doug Dale Packing Company, at or near Cozad, Nebraska to points in the states of CA, OR, WA, AZ, KS, TX, IA, LA, MS, AL, GA, FL, TN, and Chicago, IL for 270 days. Restricted to traffic originating at the named origin. An underlying ETA seeks 120 days authority. Supporting shipper: Doug Dale Packing Company, Cozad, NE.

MC 150438 (Sub-6–2TA), filed: July 7, 1980. Applicant: JAFCO INDUSTRIES INC., 8015 N. Market St., Spokane, WA 99220. Representative: Frank J. Pagnotta, President, 1912 W. Gordon, Spokane, WA 99202. *Contract;* Irregular. (1) *Construction equipment and supplies,* between points in WA, OR, ID, MT for the account of Delta Summit Corporation; (2) *lumber and lumber products* from Spokane, WA, to points in OR, ID, CA, IL, IN, WI; *steel banding and coil steel* from CA, IL, IN and WI to WA for the account of Trumark Industries; (3) *electrical equipment* including, but not limited to, *industrial transformers* from Spokane, WA, to points in WA, OR, CA, IL, IN, WI, OH, MN and MT; *steel components* from points in IL, IN, MN, WI and OH to WA for the account of Spokane Transformers/Square D Electrical Equipment; (4) *commodities as may be utilized in the manufacture of trailers and truck equipment* from points in MI, OH and CA to facilities of Fruehauf Trailer Corporation in WA; (5) *animal feeds* from points in WA to points in OR, ID and MT; *commodities as may be utilized in the manufacture of animal feeds and supplements,* from ports of entry on the International Boundary line between the U.S. and Canada located in WA, and from points in MN, IA, OR, CA, UT and MT to points in WA, for the account of Fox Milling, Inc. Shippers (1) through (5) above each support this application for 270 days. There are five shippers. Their statements may be examined at the Regional office listed.

MC 148731 (Sub-6–1TA), filed: July 7, 1980. Applicant: MINKEVITCH TRUCKING & HAULING INC., 1217 Cross St., Ogden, UT 84404. Representative: Fred J. Minkevitch Jr. (same address as applicant). *Contract carrier* over irregular routes; (1) *Salt* and *Salt products,* and (2) *materials and supplies used in agricultural, water treatment, food processing, wholesale grocery and institutional supply industries when shipped in mixed loads with commodities named in (1) above,* between the facilities of Lake Crystal Salt Co. at or near Saline and Ogden, UT, on the one hand, and, on the other points in KS, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lake Crystal Salt Co., 720 Exchange Rd., P.O. Box 1149, Ogden, UT 84402.

MC 127690 (Sub-6–2TA), filed: July 7, 1980. Applicant: MONTANA TRANSPORT COMPANY, P.O. Box 860, Jerrie Lane, Billings, MT 59103. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Round hay bale handlers,* from Grafton, ND, to points in MT, SD, WY, ID, WA, OR, and UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Forster Manufacturing, Rome A–20, 6120 2nd St. SE, Calgary, Alberta, Canada T2H 2L8.

MC 144829 (Sub-6–1TA), filed: July 7, 1980. Applicant: HB MUCHMORE d.b.a. MUCHMORE TRUCKING, 4659 Crater Lake Highway, Medford, OR 97401. Representative: Jerry R. Woods, Suite 1440, 200 SW Market Street, Portland, OR 97201. (1) *Charcoal and charcoal briquettes, lighter fluid, hickory chips, and equipment, materials, and supplies used in the distribution or manufacture of charcoal and charcoal briquettes;* and (2) *Pallets, empty returned* (1) from the facilities of Husky Industries, Inc. at White City, OR to points in ID, MT, UT and WA; and (2) between points in AZ, CA, ID, MT, NV, UT and WA, on the one hand, and, on the other, the facilities of Husky Industries, Inc. at White City, OR for 270 days. Supporting shipper: Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA.

MC 730 (Sub-6–7TA), filed July 7, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge (same as applicant). *Fish oil residumm,* in bulk, in tank vehicles, from Terminal Island, CA to Delavan, WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Harbor Trading Company, 555 West 9th, Suite 16, San Pedro, CA 90731.

MC 141532 (Sub-6–8TA), filed July 8, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104. *Contract carrier,* irregular routes: *Iron and steel articles and concrete posts and pilings,* from the facilities of Ameron Steel & Wire Division located at Etiwanda, Fillmore and Oakland, CA to points in the United States in and west of MN, IA, MO, AR and LA, for the account of Ameron Steel & Wire Division for 270 days. Supporting shipper: Ameron Steel & Wire Division, P.O. Box 8 (12459 Arrow Highway), Etiwanda, CA 91739.

MC 147344 (Sub-6–3TA), filed July 9, 1980. Applicant: RED'S EXPRESS INC., 309 Beech Street, Modesto, CA 95351. Representative: Bruce W. Rossio, 2701 Marlboro Place, Modesto, CA 95355. (1) *Common carrier,* regular route, *general commodities,* except: (1) *automobiles, trucks and buses* (2) *livestock* (3) *liquids or compressed gases* in bulk or in tank trucks (4) *bulk commodities* in dump trucks (5) *logs,* from, to and between all points and places located on the following described routes: (1) On State Hwy 80 from San Francisco, CA to Sacramento, CA. (2) On State Hwy 17 from Oakland, CA to Jct. State Hwys 238/17. (3) On Jct. State Hwys 238/17 to Jct. State Hwys 238/580. (4) On State Hwy 580 from Jct. State Hwys 238/580 to Tracy, CA. (5) On State Hwy 680 from San Jose, CA to Jct. State Hwys 680/80.

(6) On State Hwy 99 from Merced, CA to Wheeler Ridge, CA. (7) On U.S. Hwy 5 from State Hwy 132 to San Ysidro, CA. (8) On U.S. Hwy 405 from Irvine, CA to San Fernando, CA. (9) On State Hwy 10 from Redlands, CA to Santa Monica, CA. (10) On U.S. Hwy 15 from Colton, CA to Hermosa Beach, CA, for 270 days. Supporting shippers: K–P–F Electric Co., P.O. Box 8485, Stockton, CA 95208, The Marley Cooling Tower Company, 150 North Sinclair, Stockton, CA 95205, American Can Company, 2200 Lapham Drive, Modesto, CA, A & W Concentrates, Inc., 2150 E. Yosemite, Modesto, CA 95351.

MC 135082 (Sub-6–9TA), filed July 7, 1980. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, Albuquerque, NM 87125. Representative: D. F. Jones (same as applicant). *Boric acid compound and commodities used in the manufacture thereof,* except commodities in bulk moving in tank vehicles, between the facilities of HJH Chemicals, Inc., Maricopa County, AZ and points in the United States (excluding AK and HI), for 270 days. Supporting shipper: HJH Chemicals, Inc., 2229 East Magnolia, Phoenix, AZ 85034.

MC 56945 (Sub-6–1TA), filed July 7, 1980. Applicant: S & H TRUCK LINES, INC., 13990 Valley Boulevard, Fontana, CA 92335. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Aluminum ingots and scrap aluminum,* in containers, restricted to traffic having a subsequent movement by water from the facilities of U.S. Reduction Company at or near Fontana, CA, to Los Angeles and Long Beach Harbors, CA, for 270 days. Supporting shipper: Martin A. Wohadlow, Metal Preparation Superintendent, U.S. Reduction Company, 11600 Etiwanda Avenue, Fontana, CA 92325.

MC 59856 (Sub-6–4TA), filed July 8, 1980. Applicant: SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, WY 82601. Representative: John R. Davidson, Room 805, First Bank Building, Billings, MT 59101. *Common carrier,* regular routes, *General commodities,* except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of their size or weight require the use of special equipment, (1) Between Salt Lake City, UT and Cheyenne, WY. From Salt Lake City over combined Interstate Hwy 80 and U.S. Hwy 189 to Cheyenne, and return over the same route, serving all intermediate points on Interstate Hwy 80 located in the State of Wyoming. (2) Between Salt Lake City, UT and Casper, WY. (a) From Salt Lake City over combined Interstate Hwy 80 and U.S. Hwy 189 to the junction with U.S. Hwy 287 at or near Rawlins, WY, then over U.S. Hwy 287 to the junction with WY Hwy 220, then over WY Hwy 220 to Casper, and return over the same routes, serving all intermediate points between Rawlins and Casper, and the off-route point of Bairoil, WY, (b) From Salt Lake City over combined Interstate Hwy 80 and U.S. Hwy 189 to the junction with U.S. Hwy 187 at or near Rock Springs, WY, then over U.S. Hwy 187 to the junction with WY Hwy 28, then over Hwy 28 to the junction with U.S. Hwy 287, then over U.S. Hwy 287 to the junction with WY Hwy 789 at or near Lander, WY, then over WY Hwy 789 to the junction with combined U.S. Hwy 20 and 26 at or near Riverton, WY, then over combined U.S. Hwy 20 and 26 to Casper, and return over the same routes, serving all intermediate points between Rock Springs and Casper. (3) Between Salt Lake City, UT and the junction of Interstate Hwy 80 N. and Interstate Hwy 80 at or near Echo, UT. From Salt Lake City over Interstate Hwy 15 to its junction with Interstate Hwy 80 N. at or near Roy, UT, then over Interstate Hwy 80 N. to its junction with Interstate Hwy 80, and return over the same routes, serving the intermediate points of Clearfield and Ogden, UT; for 270 days. (Applicant intends to tack the authority requested in paragraph 3 with that requested in paragraphs 1 and 2). Applicant requests interline privileges. There are 52 shippers. Their statements may be examined at the Regional office listed.

MC 150852 (Sub-6–2TA), filed July 9, 1980. Applicant: SKYLINE TRANSPORT, INC., 1469 West 6720 South, West Jordan, UT 84084. Representative: Robert G. Simonian, 1469 West 6720 South, West Jordan, UT 84084. *Contract Carrier:* Irregular routes: *Foodstuff,* from points in WA, OR, CA, ID, MT, AZ, CO, TX to points in UT, for the account of Livingston Distributing Co., for 270 days. Supporting Shipper: Livingston Distributing Co., 525 South Main St., Midvale, UT 84047.

MC 150956 (Sub-6–4TA), filed July 2, 1980. Applicant: SOUTHWEST TRUCK SERVICE, P.O. AD, Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Foodstuffs,* Canned and Preserved; from the facility of Heinz, U.S.A. at or near Tracy and Stockton, CA to the states of AZ, ID, MT, NV, OR, UT, WA and WY, for 270 days. Supporting Shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 113271 (Sub-6–6TA), filed July 7, 1980. Applicant: TRANSYSTEMS INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. *Chisel plows and commodities used or useful in the manufacture and distribution of chisel plows,* between points in Chouteau County, MT and points in IL, IN, IA, MN, NE, ND, SD and WI, for 270 days. Supporting Shipper: Renn Industries, Inc., Fort Benton, MT 59442.

MC 26396 (Sub-6–32TA), filed July 7, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT. 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE. 68501. *Agricultural combine reels and utility trailers,* from Spokane, WA to points in IA, KS, MN, MT, NE, ND, OK, SD, TX and WY, for 270 days. Supporting shipper: Cheney Weeder, Inc., 1805 West 4th, Spokane, WA 99204.

MC 26396 (Sub-6–44TA), filed July 7, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT. 59107. Representative: Barbara S. George (same address as applicant). *Ceramic, mosaic and quarry title,* from Canton, OH and points in its commercial zone to points in ID, UT, WY and CA, for 270 days. Supporting shipper: Suenaga Masonry & Building Supply, Inc., 555 Warren Ave. Pocatello, ID 83201.

MC 141804 (Sub-6–63TA), filed July 7, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). *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 because of size or weight), between all points in the U.S. (except AK and HI). Restricted to the transportation of traffic moving to, from or between the facilities of or utilized by Minnesota Mining and Manufacturing Company or its wholly owned subsidiaries, for 270 days. Supporting shipper: Frank M. Wilcox, Transportation Logistics and Regulation Manager, 3M Company, Transportation—224–1E, St. Paul, MN 55144.

MC 114416 (Sub-6–12TA), filed July 7, 1980. Applicant: WESTERN TRANSPORT CRANE & RIGGING, 100 Western Way, Missoula, MT 59806. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Automobile and refuse shedders, and parts thereof,* between the facilities of

Hammermills Inc. at Cedar Rapids, IA, on the one hand, and, on the other, points in the United States (except AK and HI), for 270 days. Supporting shipper: Hammermills Inc., 800 First Avenue N.W., Cedar Rapids, IA 52405.

MC 114416 (Sub-6-13TA), filed July 7, 1980. Applicant: WESTERN TRANSPORT CRANE & RIGGING, 100 Western Way, Missoula, MT 59806. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. *Portable rock crushers, and parts thereof,* between the facilities of Universal Engineering Corporation at Cedar Rapids, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Universal Engineering Corporation, 800 First Avenue N.W., Cedar Rapids, IA 52405.

MC 143775 (Sub-6-20TA), filed July 7, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, (same address as applicant). *General commodities* (except Classes A & B explosives, commodities in bulk, commodities requiring the use of special equipment, commodities of unusual value, and household goods as defined by the Commission), from Los Angeles County, CA to AZ and WA, restricted to the transportation of traffic originating at or destined to the facilities of or used by non-profit shippers associations as defined by the Commission, for 270 days. Supporting shipper: Richard Kulow, Traffice Manager, Streamline Shippers Association, 355 S. Santa Fe Avenue, Los Angeles, CA 90013.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21743 Filed 7-18-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-79]

Certain Cathode Sputter Coated Glass Transparencies; Notice of Commission Request for Comments Concerning Settlement Agreement and Termination

AGENCY: United States International Trade Commission.

ACTION: Proposed settlement agreement which forms the basis for the parties' motion to terminate—request for public comment.

SUMMARY: This settlement agreement would result in termination of this investigation. This notice requests public comment on the parties' motion to terminate, which is available in the Office of the Secretary of the Commission, on or before August 20, 1980.

DATE: Comments will be considered if recevied on or before August 20, 1980. 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, 701 E Street, N.W., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Scott Daniels, Esquire, Office of the General Counsel, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436; Telephone (202) 523-0480.

SUPPLEMENTAL INFORMATION: In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930, of alleged unfair methods of competition and unfair acts in the importation and sale of *Certain Cathode Sputter Coated Glass Transparencies* into the United States, the Administrative Law Judge (ALJ) recommended on May 28, 1980, that the Commission grant the parties' motion to terminate this investigation against respondents Triplex Safety Glass Co. Ltd. and British Aerospace, Inc., which was certified to the Commission on May 7, 1980. Copies of the ALJ's recommendation may be obtained by interested persons by contacting the Office of the Secretary to the Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523-0161.

This investigation began with an amended complaint flied by PPG Industries Inc. on January 14, 1980, alleging infringement of claims 1-11 of United States Letters Patent No. 4,094,763 by Triplex and British Aerospace and was instituted on February 12, 1980. On April 25, 1980, the four parties filed a motion to terminate the investigation on the basis of a license agreement between PPG and Boeing. The Commission investigative attorney filed a memorandum in support of the motion to terminate.

Written Comments Requested

Since the motion to terminate is joined in by all the parties, including the Commission's investigative attorney, and since the ALJ has recommended that the motion be granted, no oral argument will be held with respect to the ALJ's recommendation. However, in light of the Commission's duty to consider the public interest, the Commission requests written comments from members of the public concerning the effect of the termination of this investigation based on the license agreement upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. These written comments must be filed with the Secretary of the Commission no later than August 20, 1980. The Commission has also requested comments from government agencies pursuant to 19 CFR section 210.14(a)(2) on the license agreement, which is disclosable to those agencies under provisions of the protective order covering the investigation.

The essence of the license agreement is PPG's promise to license Boeing, the principal domestic user of the Cathode Sputter Coated Glass Transparencies. PPG also agrees not to assert the '763 patent in any section 337 proceeding against Triplex.

Additional Information

The original and 19 true copies of all written submissions must be filed with the Secretary of the Commission. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's office.

Issued: June 25, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-21721 Filed 7-18-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Grant Notification; Training and Consulting Project

June 16, 1980.

Attached is a grant notification entitled, "National Institute of Corrections Training and Consulting Project," at least in the amount of $818,250.00 plus any additional supplemental awards which may be added on to the original grant award during the Federal fiscal year 1981.

If you are interested in submitting an application, please read the notification carefully and have your formal submittal into the National Institute of

Corrections by close of business on September 15, 1980.

In the event there are any questions, please contact Charles E. Wolfe of the National Institute of Corrections (NIC) Financial Management Division at 202–724–3106.

Applications and instructions to aid you in preparing your response to this notification may be obtained from NIC. The Institute plans to make the grant award no later than October 1, 1980.

Frank A. Maes,

Chief, Financial Management, U.S. Department of Justice, National Institute of Corrections.

Introduction/General Statement

The National Institute of Corrections (NIC) will be sponsoring a cooperative agreement grant entitled, "NIC Training and Consulting Project," of which the main purpose would be to have the grantee review, audit, and make payments to NIC identified consultants and trainees. This notification outlines the purpose, background and requirements for submitting a proposal (in the form of a grant application—Standard Form 424) to the Institute for consideration. Pertaining to Fiscal Year 1981, NIC has set aside initially $818,250 for disbursement purposes only to NIC identified grantees and consultants plus anticipated additions to the grant during the fiscal year. These amounts do not include the cost of managing the cooperative agreement award. A one-year cooperative agreement will be given to the group or agency being awarded the grant.

Purpose

The purpose of this grant notification/solicitation is:

1. to locate an organization with a primary background in management and or accounting to make payments to NIC identified consultants and trainees

2. to make timely accurate financial reports to NIC indicating the financial status of the grant award by NIC program activity

3. to providing listings to NIC indicating the payees, amounts paid, and date paid by NIC program activity

4. at the end of each calendar year in which the grant is in effect, prepare IRS 1099 for those consultants which were paid a professional fee during the year.

Background

Congress, in passing the National Institute of Correction's (NIC) legislation in 1974 (P.L. 93–415), recognized a continuing need to coordinate Federal efforts to assist corrections at the state and local levels. In its report supporting this legislation, the Senate Judiciary Committee noted that through the Institute there would be:

. . . a center in the nation to which the multitude of correctional agencies and programs of the states and localities can look for the many different kinds of assistance that they require. The Institute would serve as a center for correctional knowledge . . . (and) develop national policies for the guidance and coordination of correctional agencies.

The Institute was created to strengthen and improve local correctional agencies and programs. Designed to develop a more effective, humane, and just correctional service locally, NIC has become an advocate for safe, positive and effective correctional programming. Specific as to mission and small in size, the Institute has directed its energies and resources to improving correctional components of the larger criminal justice system. This has permitted a precise and immediate response to local problems with little of the dissipation of resources often found in larger, more remote, and formally structured organizations. Assistance is generally through direct services by Institute staff, technical assistance provided by part consultants and training programs covering all areas of corrections.

Requirements

Using the objectives identified in this notification and the appended report, interested parties may submit a proposal to the National Institute of Corrections, U.S. Department of Justice, 320 First Street, N.W., Washington, D.C. 20534, in the form of a *grant application—Standard Form 424.* All applications must be submitted in three copies by September 15, 1980. All applications must be submitted in compliance with instructions as outlined in the NIC *Grant Guidelines Manual.* The format outlined in the application and in the guideline manual must be followed.

In completing the application, the following (requirements/guidelines) must be adhered to:

A. The grantee cooperative agreement recipient shall furnish all personnel, materials, incidental services, reports, and travel necessary to perform the project described in the grant award, at such locations and for such individuals as designated by the National Institute of Corrections.

1. This project is designed to provide management accounting and recordkeeping functions for NIC Training and Consulting Projects. The grant encompasses the four branches of NIC: Jail Center, Director's Office, Staff Development and Correctional Programs.

2. It is a requirement that the primary performance of the Grantee will be within the metropolitan Washington, D.C. area.

B. *Accounting System Standards and Components*

1. The financial responsibility of the recipient must be parrallel to that of NIC. The recipient must govern its affairs so that it may properly discharge the public trust which accompanies the authority to expend public funds. The recipient must establish and maintain fiscal control and accounting procedures which assure that NIC funds available for the conduct of the grant programs and projects are properly disbursed. In accordance with the NIC Guideline Manual, Financial Management Guidelines for Grantees, the basic accounting system should meet the following criteria:

(a) Accounting records should provide information needed to adequately identify the receipt of funds under each grant award (plus supplementals) and the expenditure of funds by each award.

(b) Entries in accounting records should refer to subsidiary records and/or documentation which support the entry and which can be readily identified.

(c) The accounting system should provide accurate and current financial reporting information.

(d) The accounting system should be integrated with an adequate system of internal controls to properly safeguard the funds and assets covered, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed management practices.

2. The accounting system components would consist of a minimum of a cash receipts journal, cash disbursements journal, and a component capable of recording obligations upon receipt of an obligation authorization by individual NIC Program section.

(a) The recipient must prepare and maintain a cash receipts journal and substantiating documentation to support requests by the recipient to NIC for funds necessary to cover outstanding obligations as required to meet the grant's goals on a timely basis.

(b) The recipient will be responsible for the preparation and maintenance of a cash disbursements journal which will properly reflect payments to NIC funds to duly authorized consultants and trainees in compliance with the objectives of the Training and Consulting Project. It will be the responsibility of NIC to specifically identify each consultant and trainee to

be paid and it will be the responsibility of the recipient to ensure that only properly authorized and documented requests for payment are in fact processed for payment. The following are the minimum performance elements.

(1) The initial review, verification, and audit of documentation submitted for payment including matching each expense voucher with appropriate obligation report. Submitted documentation will include a detailed billing by the consultant for the type of work performed, total number of days involved (including preparation and report writing time), plus a detailed travel voucher and applicable receipts. Consultant fee payments will be made in compliance with applicable NIC Standard Operating Procedures, Travel vouchers will be processed in agreement with applicable Federal Government Travel Regulations.

(2) Issuance of a check to the consultant and trainee identifying payment type and details of the calculation. All payments must be processed within five working days of payment request receipt.

(3) Distribution of expenditures into specific NIC program budget categories as required by the terms of the grant. Timely reports will be submitted to NIC indicating the status of each program budget category.

(4) Reduce obligated funds by the expenditure amount in order to maintain a constant record of unobligated, obligated, and expended funds for the project by budget category and in total by each separate grant supplemental.

(5) Accumulate fees paid to consultants and associates for professional services for purposes of monthly and annual reports. The recipient will also be responsible for the issuance of individual IRS Form 1099 at the end of each calendar year in which the grant is operational.

(6) The recipient must be able to maintain a system element capable of recording obligations upon receipt of an obligation authorization form by consultant/trainee and budget category and detailing balances unobligated, obligated, and expended by specific NIC Program budget. The recipient is responsible for all cost overruns to the extent of keeping NIC formally informed whenever obligations exceed the amount of the grant award(s) in total or by individual subdivided budget category.

(7) The recipient must properly maintain a general ledger which contains a sufficiently detailed chart of accounts to reflect all costs by individual grant budget categories. Posting from the jorunals of original entry may be in total by month providing sufficient detail of each transaction is reported to NIC. Accounting for NIC funds must be in compliance with generally accepted accounting principles and applicable U.S. Government guidelines.

3. The recipient will be required to submit to NIC the following reports:

(a) Standard Form 270 "Request For Advance or Reimbursement" on a monthly basis.

(b) Form H–1 "Financial Status Report" which reflects obligations and expenditures by individual grant award. This report is due on a quarterly basis after the grant start-up date.

(c) A monthly bank reconciliation of all grant funds.

(d) A monthly listing of all individual consultants/trainees paid during the period by total amount paid, type and purpose of expenditure, and the specific NIC Program budget being expended against.

(e) A monthly obligation report detailing the funds by individual Program budget indicating the budgeted, obligated, expended, unexpended, and unobligated balance.

C. *Prior Experience.*

Offerors should have been engaged as an established business providing accounting and management assistance services to the general public on a regular basis for a period of at least two years prior to the date of issuance of this proposal. No joint ventures will be allowed under this solicitation.

The offeror awarded the grant cooperative agreement under this solicitation shall perform with the existing organization the total amount of work to be performed under the award.

D. *Cost and Pricing Elements.*

The total amount which is to be disbursed to NIC identified trainees and consultants will be $818,250 plus supplementals and will be included in the following elements on Page 9, Part III Budget Information of the Standard Form 424 Federal Assistance Grant Application:

1. Personnel: The offeror will include all in-house personnel costs including secretary, supervisory, and other staff costs dealing with operating the grant award. By NIC legislation, the maximum per day per full-time employee service payment is $190 excluding the cost of fringe benefits.

2. Fringe benefits: All fringe benefits applicable to personnel costs.

3. Travel: All related travel cost in connection with managing the grant would be included under this item.

4. Equipment: Any office equipment directly related to the grant's operations would be included under this item.

5. Supplies: Any office supplies directly related to the grant's operations would be included under this item.

6. Contractual: The $818,250 would be included under this item for the purposes of paying consulting costs plus all travel and per diem costs of NIC identified consultants and trainees.

7. Construction: Not applicable.

8. Other: Other costs which would not be considered under one of the other object class categories. Profit fees or any other type of profit costs are not allowable under a grant award.

9. Indirect Cost: Refer to NIC Guideline Manual: *Financial Management Guidelines for Grantees* page 29, paragraph 46 under Indirect Costs for further guidance.

A separate budget narrative must also be submitted to justify all costs claimed under Section B—Budget Categories.

E. *Evaluation Criteria for Review of Application.*

1. Quality, experience and capability of staff offeror intends to assign to this project. The personnel will present in some detail the staffing available to the project. This will include biographical data on all professional staff, 20 points.

2. Previous experience and effectiveness in performing similar type services. Offeror should narrate business history, with emphasis on dealing with similar grants or contracts, 30 points.

3. Total costs for management services (excludes travel, per diem, and consultant fees which is represented by the $818,250 to be disbursed to NIC selected consultants and trainees). An indication of approximately the cost per individual voucher/payment document processed is required, 50 points.

Total: 100 points.

[FR Doc. 80-21748 Filed 7-18-80; 8:45 am]
BILLING CODE 4410-36-M

NUCLEAR REGULATORY COMMISSION

Screening Committee for Lawyer Vacancies on the Licensing Board Panel; Meeting

On July 9, 1980, notice was given in accordance with Section 10 of the Federal Advisory Committee Act that NRC's Screening Committee for Lawyer Vacancies on the Licensing Board Panel will hold a closed meeting on July 23, 1980 to interview and evaluate candidates for the position of Chairman of the Atomic Safety and Licensing Board Panel (45 FR 46263).

This notice amends the agenda for the July 23 meeting to include consideration of candidates for the position of

Permanent Member-Lawyer on the ASLBP.

Dated in Washington, D.C. this 14th day of July, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-21745 Filed 7-19-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-452 and 50-453]

Detroit Edison Co. (Greenwood Energy Center, Units 2 and 3); Order Dismissing Proceeding

July 14, 1980.

On July 9, 1980, the Applicant notified the Board and all parties that it was withdrawing its Application for Licenses in this proceeding and requested the termination of the proceeding. The Applicant's request is granted and the proceeding is dismissed. The motion by Citizens for Employment and Energy of June 2, 1980, is now moot and is also dismissed.

Detroit Edison also requested that all documents in connection with the application which have been withheld from public disclosure under 10 CFR 2.790 continue to be withheld. If the Commission determines to release such documents or information, Detroit Edison requests that it be notifed of such determination pursuant to § 2.790(c). This request is also granted.

It is so ordered.

Dated at Bethesda, Maryland this 14th day of July 1980.

For the Atomic Safety and Licensing Board.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 80-21746 Filed 7-18-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operations of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment deletes from the reactor protection system the reactor trip derived from the opening of any single reactor coolant pump circuit breaker above 36% power.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 2, 1980, as supplemented July 7, 1980, (2) Amendment No. 46 to License No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of July, 1980.

For the Nuclear Regulatory Commission,

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-21744 Filed 7-18-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Three Mile Island Nuclear Power Plant, Unit No. 1; Meeting

The ACRS Subcommittee on the Three Mile Island Nuclear Power Plant, Unit No. 1 (TMI-1), will hold a meeting on Tuesday and Wednesday, August 5-6, 1980 in Room 1046, 1717 H St., NW, Washington, DC to consider the Metropolitan Edison Company request for permission to restart TMI-1. Notice of this meeting was published June 20, 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 entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act exemption 4.) To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, August 5 and Wednesday, August 6, 1980, 8:30 a.m. until the conclusion of business each day.

During the intitial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, the Metropolitan Edison Company, their consultants, and other interested persons regarding the licensee's compliance with the NRC Order dated August 9, 1979, in which the Commission stated the basis for its concern about the restart of TMI-1 and the procedures governing further proceedings in the matter, and other items considered necessary by the NRC Staff.

Further information regarding items 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 therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634-1414) between 8:15 a.m. and 5 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: July 14, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-21982 filed 7-18-80; 10:03 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Delay in Publication of Semi-Annual Agenda

July 16, 1980.

AGENCY: Office of Management and Budget.

ACTION: Delay in publication of Semi-Annual Agenda.

SUMMARY: The publication of OMB's semi-annual agenda of upcoming actions on OMB's directive was to be published in the **Federal Register** July 21, 1980. Delays due to a review of Office of Federal Procurement Policy issuances and whether they should be included on the agenda have caused this date to slip to August 4, 1980.

FOR FURTHER INFORMATION CONTACT: Budget and Management Office, Room 5208, New Executive Office Building, Washington, D.C. 20503, (202) 395-7250.

Brenda A. Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-21834 Filed 7-18-80; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

July 16, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

Extensions

Rural Electrification Administration
Accounting system requirements for telephone borrowers
REA 461-1
On occasion
REA telephone borrowers
Charles A. Ellett, 395-7340

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

Revisions

Bureau of the Census
Tractors (except contractors' off-highway type, garden tractors, turf tractors, and motor tillers), production and shipments
MA-35T
Annually
Manufacturers of wheel and tracklaying tractors, 20 responses, 20 hours
Off. of Federal Statistical Policy and Standard, 673-7974
National Oceanic and Atmospheric Administration
Marine recreational fishing: National catch and effort survey
Annually
Households and marine recreational anglers, 295,000 responses, 9,258 hours
William T. Adams, 395-4814

Extensions

Bureau of the Census
Pulp, paper, and board—annual report
MA-26C
Annually
Paper and paperboard mills, 700 responses, 700 hours
Off. of Federal Statistical Policy and Standard, 673-7974
Bureau of the Census
Consumer, scientific, technical, industrial glassware survey
MA-32E
Annually
Manufacturers of glassware, 230 responses, 230 hours
Off. of Federal Statistical Policy and Standard, 673-7974
Bureau of the Census
Hardwood plywood (consumption of selected materials, production and shipments) annual report
MA-24F
Annually
Hardwood plywood manufacturers, 220 responses, 220 hours

Off. of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF ENERGY

Agency Clearance Officer—Diane W. Lique—633–8526

New Forms

National Study of the Presidential Solar Consumer
CS–440A/B
Single time
National homeowner sample (440A) and solar homeowners (440B), 5,000 responses, 3,333 hours
Jefferson B. Hill, 395–7340

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph J. Strnad—245–7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration
Directory of Minority Organigations providing services in alcohol, drug abuse, and mental health
Single time
Adm. agency directors or staff, 500 responses, 125 hours
Richard Eisinger, 395–6880

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. LaRue—633–3526

New Forms

Offices, Boards, Division
Questionnaire on offender based transaction statistics
BJS (series 6610)
Single time
Stat. Anal. Ctrs. of Crim. Just. Cou. in 52 Sts (In. DC, Pr), 52 responses, 47 hours
Off. of Federal Statistical Policy and Standard, 673–7974

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Henry F. Beal—755–2744

New Forms

New Source Environmental Questionnaire
On occasion
Potential air and water pollution discharges, 300 responses, 2,400 hours
Edward H. Clarke, 395–7340

EXECUTIVE OFFICE OF THE PRESIDENT (OTHER)

Agency Clearance Officer—Robert J. Roeder—395–5132

New Forms

President's Commission on Pension Policy

Pensions and savings survey instrument, wave 2 [1]
6375–10
Single time
Single family non-farm household, 3,500 responses, 2,333 hours
Arnold Strasser, 395–6880

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–21822 Filed 7–18–80, 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21656 (70–4596)(54–259)]

American Electric Power Co., Inc., and Columbus & Southern Ohio Electric Co; Filing of Plan Pursuant to Section 11(e) for Retirement of Publicly Held Shares of Common Stock of Subsidiary

July 15, 1980. Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2 Broadway, New York, New York 10004, a registered holding Company, has filed with this Commission an amended plan ("Plan") pursuant to Section 11(e) of the Public Utility Holding Company Act of 1935 ("Act") providing for the retirement of the publicly-held shares of common stock of Columbus and Southern Ohio Electric Company ("CSOE"), 215 North Front Street, Columbus, Ohio 43215, an electric utility subsidiary. All interested persons are referred to the Plan, which is summarized below, for a complete statement of the proposed transaction.

By supplemental memorandum and order dated February 12, 1980 (HCAR No. 21433), AEP was authorized to acquire the common stock of CSOE. By supplemental order dated March 28, 1980 (HCAR No. 21498), AEP was authorized to tender shares of its common stock in exchange for shares of common stock of CSOE, on the basis of 1.3 shares of AEP common stock for each share of CSOE. As a result of the tender, which terminated June 20, 1980, AEP acquired 15,870,876 shares (or 96.71 percent) of the 16,410,426 outstanding shares of CSOE's common stock. The remaining 539,550 shares of CSOE common stock are still held by members of the general public. AEP states that although the exchange offer expired June 20, 1980, it will, prior to the effective date of the Plan (discussed below), offer informally to exchange, under the authorization previously granted by this Commission, its common shares for CSOE common shares on the basis of 1.3 shares of common stock of AEP for each common share of CSOE.

The principal terms and provisions of the Plan are as follows:

1. Prior to the effective date of the Plan each holder of record of outstanding common shares of CSOE shall be entitled (i) to all rights of such record holders, including the right to vote and to receive such dividends as may be paid on such shares, or, in the alternative, (ii) to deposit with AEP or its agent his certificate(s) for common shares of CSOE in exchange for certificate(s) for common shares of AEP on the basis of 1.3 shares of common stock of AEP for each common share of CSOE; provided, however, that neither AEP nor its agent shall be obligated to issue and/or deliver any fractional share of common stock of AEP, but shall be entitled to deliver to such depositor a check representing the value of such fractional interest on the basis of the reported closing sale price of common stock of AEP on the New York Stock Exchange on the business day preceding the date of the exchange; and provided further that neither AEP nor its agent shall be obligated to effect any such exchange upon a day which shall be a record date for the determination of those shareholders of CSOE, or of AEP, who shall be entitled to receive a dividend or to vote or for some other purpose.

2. On and after the effective date of the Plan, holders of certificates for common shares of CSOE, other than AEP, shall cease to have any rights as shareholders of CSOE, and shall become owners and record holders of shares of common stock of AEP on the basis of 1.3 shares of common stock of AEP for each common share of CSOE so held.

3. On the effective date of the Plan, CSOE shall issue to and in the name of AEP one or more certificates representing all of the common shares of CSOE which shall be changed pursuant to the Plan into shares of common stock of AEP, and AEP shall become as of said effective date, the owner and record

[1] The Office of Management and Budget has approved clearance of the President's Commission on Pension Policy's Pensions and Savings Survey Instrument, Wave 2, prior to Federal Register notification of receipt because of the urgent time constraints under which the Commission must prepare its final report to the President and the Congress.

The Commission must make recommendations on proposed policies by February 1980 which could have a substantial effect on the economy as a whole. To accomplish this task and incorporate the crucial results from the second wave of this study into the final report, immediate clearance was necessary.

The second wave of the Pensions and Savings Instrument is entirely comparable to the first wave cleared in August 1979. It is, however, a considerably shorter instrument than was previously cleared.

holder of all of the outstanding common shares of CSOE.

4. From and after the effective date of the Plan, the holder of any certificate previously representing common shares of CSOE shall, upon surrender of such certificate (or certificate issued in lieu thereof) to AEP or its agent, be entitled to receive a certificate for shares of common stock of AEP, upon the basis specified in paragraph 2 above. No frational shares of common stock of AEP shall be issued in connection with the Plan but, in lieu thereof, as soon as practicable after the effective date of the Plan, AEP's agent shall sell the fractional interests in the shares of common stock of AEP to which the holders of record of common shares of CSOE on the effective date would otherwise have been entitled, in the open market or otherwise, for the account of such holders. The proceeds of such sales, which may be held in any commercial form of bank account or accounts, shall be paid to such holders, without interest, at the time of the due surrender of their certificates for common shares of CSOE to AEP's agent in exchange for certificates for shares of common stock of AEP.

5. Upon the fifth anniversary of the effective date of the Plan, AEP and CSOE shall be entitled, with the approval of this Commission, to apply to the court referred to below, for an order or decree finding that AEP made all reasonable efforts to locate holders of unexchanged shares of CSOE's common stock and ordering that neither AEP nor CSOE shall have any further obligations to solicit the surrender of any unsurrendered certificate or to take any other action with respect thereto other than as specified in paragraph 4 above and paragraph 6 below.

6. Upon the fifth anniversary of the effective date of the Plan, AEP shall be entitled to instruct its agent to deliver to any AEP any funds held by its agent pursuant to paragraph 4 above with respect to certificates for common shares of CSOE not surrendered for exchange, and after such delivery the agent shall have no obligation to any person with respect to such funds or with respect to certificates previously representing common shares of CSOE. Upon and after such payment and until the fifteenth anniversary of the effective date of the Plan, any holder of record of certificates (or certificates issued in lieu thereof) previously representing common shares of CSOE shall be entitled, upon due surrender to AEP, but only upon due surrender, of such certificates to receive from AEP shares of common stock of AEP upon the basis set forth in paragraph 2 above and the funds formerly held for the account of such holder by AEP's agent pursuant to paragraph 4 above, to be paid by AEP. All such funds delivered by its agent to AEP pursuant to this paragraph shall be held by AEP as part of its general funds and may be used in its business. Such funds shall not be required to be set aside, held in trust, paid over to any entity, or segregated for holders of such certificates, nor shall AEP be under any obligation to record in its accounts any reserve or other provision for the payment of any amount to the holder of such certificate.

7. Upon and after the fifteenth anniversary of the effective date of the Plan, such holders who shall not theretofore have surrendered such certificates (or certificates issued in lieu thereof) shall cease to have any claims against AEP or CSOE or against any person whatsoever on account of or with respect to the shares represented by such certificates.

The Plan will become effective on a date set by AEP, such date to be within 30 days after the entry of an order by a District Court of the United States approving and enforcing the Plan. The carrying out of the Plan is subject to all necessary approvals by this Commission under the Act, and to the approval and enforcement of the Plan, by a District Court of the United States having jurisdiction, as fair and equitable and as appropriate to effectuate the provisions of Section 11 of the Act.

It is stated that notice shall be given to the holders of certificates for common shares of CSOE (or certificates issued in lieu thereof) of their eligibility to receive distributions under the Plan, and of the fact that common shares of CSOE held by them will cease to have any rights other than to receive the common stock of AEP upon due surrender of certificates pursuant to the Plan, by mailing not more than 30 days after the effective date of the Plan to each such person whose address appears of record on the stock books (or the equivalent thereof) of CSOE, and by publication by AEP at the time of such mailing at least once in at least one newspaper published and of general circulation in Columbus, Ohio, and in a newspaper published and of circulation in New York, New York. In addition, during a period of five years from the effective date of the Plan, AEP shall at least once during each calendar year within such period, solicit the surrender by the holders thereof, at their last known addresses, of all certificates previously representing common shares of CSOE (or certificates issued in lieu thereof) which have not previously been deposited.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no State commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 11, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said Plan which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon AEP and CSOE at the above-stated addresses, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the Plan, as amended or as it may be further amended, may be approved as provided in Section 11(e) of the Act or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-21811 Filed 7-18-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 03/03-5144]

Continental Investors, Inc.; Issuance of License

On May 5, 1980, a Notice was published in the Federal Register (45 FR 29652), stating that Continental Investors, Inc., located at 2020 K Street, NW., Washington, D.C. 20006 has filed an application with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980) 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.

Interested persons were given until the close of business May 20, 1980, to submit their written comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information the SBA has issued License No. 03/03-5144 to Continental Investors, Inc. on June 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: July 9, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-21728 Filed 7-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1871]

Kansas; Declaration of Disaster Loan Area

The following 9 counties and adjacent counties within the State of Kansas constitute a disaster area as a result of natural disaster as indicated:

County; Natural Disasters; and Date

Douglas; Heavy wind, rain, hail; 5/31/80.
Jefferson; Heavy wind, hail, heavy rain; 5/31/80.
Johnson; Hail, heavy winds, heavy rain; 5/31/80.
Leavenworth; Heavy wind, hail, heavy rain; 5/31/80.
Pottawatomie; Heavy wind, hail, heavy rain; 5/31/80.
Riley; Hail, wind, rain; 5/31/80.
Wabaunsee; Wind, rain, hail; 5/31/80.
Jewell; Rain, wind, hail; 5/31/80.
Smith; Rain, hail, wind; 5/31/80.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 14, 1981, and for economic injury until the close of business on April 14, 1981, at: Small Business Administration, District Office, Main Place Building, 110 East Watterman Street, Wichita, Kansas 67202, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 14, 1980.

A Vernon Weaver,

Administrator.

[FR Doc. 80-21726 Filed 7-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1870]

New York; Declaration of Disaster Loan Area

The area of 5201-5215 Broadway, in the City of New York, Manhattan County, New York, constitutes a disaster area because of damage resulting from a fire which occurred on May 5, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 12, 1980, and for economic injury until close of business on April 14, 1981, at: Small Business Admininstration, District Office, 26 Federal Plaza—Room 3100, New York, New York 10007, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 14, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-21727 Filed 7-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Delcaration of Disaster Loan Area No. 1873]

Ohio; Declaration of Disaster Loan Area.

Hamilton County and adjacent counties within the State of Ohio constitute a disaster area as a result of damage caused by wind and tornado which occurred on June 2, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 12, 1980, and for economic injury until the close of business on April 14, 1981, at: Small Business Administration, District Office, Federal Building—U.S. Court House, 85 Marconi Boulevard, Columbus, Ohio 43215, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 14, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-21724 Filed 7-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1872]

Washington; Declaration of Disaster Loan Area

The following county and adjacent counties within the State of Washington constitute a disaster area as a result of natural disaster to alfalfa seed and sweet onion crops as follows:

County, Natural Disasters, and Dates

Walla Walla—Heavy rainfall (Alfalfa), 8/13-9/9/79.
Walla Walla—Freezing temperatures, wind (Sweet Onion), 1/26-1/30/80.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 14, 1981, and for economic injury until the close of business on April 14, 1981, at: Small Business Administration, District Office, Room 651, West 920 Riverside Avenue, Spokane, Washington 99210; or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: July 14, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-21725 Filed 7-18-80; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE U. S. TRADE REPRESENTATIVE

[Docket No. 301-3]

Seymour Food Co.; Termination of Investigation

The United States Trade Representative, in accordance with the provisions of 15 FR 2006.6, is terminating the investigations under section 301 of the Trade Act of 1974, concerning the imposition of variable supplemental levies by the European Community (EC) on imports of egg albumin from the United States. The petition, filed by Seymour Food Company on August 7, 1975, alleged that sudden changes made by the EC in the levies were impairing the ability of United States exporters to contract for sales to the EC. A Federal Register notice requesting public comments was published on August 11, 1975. (40 FR 31619).

After reviewing the allegations in the petition, the United States government conducted informal consultations with the EC and began to monitor exports of egg albumin to the EC. The EC ceased imposition of supplementary levies in September of 1976 but has increased import charges steadily since that date. In spite of this steady increase in import charges, however, there has been a significant upward trend in the volume and value of U.S. exports to the EC of egg albumin.

Because the EC no longer applies supplementary levies and because U.S. sales of egg albumin are not affected significantly by the import charges, the U.S. Trade Representative, with the advice of the 301 Committee, has determined that action under section 301

is no longer necessary. The petitioner has been advised of, and is in agreement with, this determination.

The investigation of the complaint filed by Seymour Food Company is terminated.

Jeanne Archibald,

Chairman, Section 301 Committee.

[FR Doc. 21720 Filed 7-18-80; 8:45 am]

BILLING CODE 3019-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Regulatory Interpretation Dockets; Establishment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Announcement of establishment of regulatory interpretation dockets.

SUMMARY: The Office of the Chief Counsel has created a Regulatory Interpretation Docket which will be available to the public. The Docket, when completed, will contain copies of regulatory interpretations issued by the FAA. This new Docket is part of the continuing effort by the FAA to keep the public fully informed of all regulatory actions taken by the agency.

FOR FURTHER INFORMATION CONTACT: Edward P. Faberman, Regulations and Enforcement Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 426-3073.

PROCEDURE: Members of the public occasionally write the FAA for interpretations concerning the applicability of certain regulations to specific factual situations. Interpretations are then issued to the individual who requested it. Before the establishment of this new Interpretive Docket, there was no central location where these interpretations were available for public review. These interpretations might be of interest to individuals involved in factual questions similar to those involved in previously issued interpretations. Under this new arrangement, a public interpretive docket will be available in the Public Docket Room, Rm. 916, 800 Independence Ave. SW., Washington, D.C. 20091. The docket room is open 8:30 a.m. to 5:00 p.m. This is consistent, with the objectives established by President Carter in Executive Order 12044 to keep the public informed of all aspects of the agency regulatory programs. This is a part of a continuing effort on the part of the FAA to involve the public early in the rulemaking process. Other steps taken by the agency which implement the goals established by the President include new procedures for the publication of petitions for exemption and for rulemaking and their final disposition (44 FR 6897, Feb. 5, 1979) and the establishment of procedures for the issuance of flight time interpretation (45 FR 30424, May 8, 1980). Under the new procedure, all legal interpretations related to regulations will be contained in an Interpretive Docket and available to the public. These interpretations may be reviewed or copies made for the standard copy fees. It is planned to establish an Interpretive Federal Aviation Regulation (FAR) Docket on a Part by Part basis over the next six months. Interpretations involving Parts 61 and 91 have been docketed and are now available for public review.

Periodic announcements will be made as additional Parts are docketed. During the period while the new Docket is being established, every effort will continue to make interpretations available on specific FAR sections upon request.

Issued in Washington D.C. on July 15, 1980.

Clark H. Onstad,

Chief Counsel, Federal Aviation Administration.

[FR Doc. 80-21749 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Postponement of Public Proceeding Regarding Defect Investigation; 1970-79 Ford Motor Co. Vehicles Equipped With Automatic Transmissions

On June 13, 1980, the National Highway Traffic Safety Administration issued a notice for publication in the **Federal Register** (45 FR 41564) that it would hold a public proceeding on July 21, 1980 regarding its initial determination of a safety-related defect in 1970-1979 Ford Motor Company vehicles equipped with C-3, C-4, C-6, FMX or JATCO transmissions.

The public proceeding announced in the notice of June 13, has been rescheduled and will now take place on Wednesday, August 20, 1980, at 9:00 a.m. in Room 2230 of the Department of Transportation Headquarters, 400 Seventh Street SW., Washington, D.C. 20590. Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral prresentations are requested to notify Ms. Joyce Tannahill, Office of Defects Investigation, National Highway Traffic Safety Administration, Room 5326, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Telephone (202-426-2850) before close of business on August 13, 1980.

The agency's investigative file in this matter is available for public inspection during working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412), delegation of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on: July 18, 1980.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 80-22018 Filed 7-18-80; 11:43 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulation (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulations of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes August 5, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S.

Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
3004-X	Air Products and Chemicals, Inc., Allentown, PA	3004
3004-X	Airco Industrial Gases, Murray Hill, NJ	3004
3004-X	Union Carbide Corp.—Linde Division, Tarrytown, NY	3004
3992-X	Linden Chemicals & Plastics, Inc., Edison, NJ	3992
4282-X	Hercules, Inc., Wilmington, DE	4282
4612-X	Aldrich Chemical Co., Inc., Milwaukee, WI	4612
4631-X	Energy Sciences & Consultants, Inc., Biwabik, MN	4631
5322-X	LNG Services, Ing., Pittsburg, PA	5322
5365-X	SunOlin Chemical Co., Claymont, DE	5365
6045-X	Union Carbide Corp., Tarrytown, NY	6045
6154-X	Uniroyal Chemical, Naugatuck, CT	6154
6497-X	FMC Corporation, Philadelphia, PA	6497
6498-X	Luxfer U.S.A., Ltd., Riverside, CA [1]	6498
6530-X	Liquid Air Corp., Chicago, IL	6530
6536-X	Philadelphia Gas Works, Philadelphia, PA	6536
6538-X	Aladdin Industries Inc., Nashville, TN	6538
6554-X	GPS Industries, City of Industry, CA	6554
6554-X	Aspen Industries, Inc., Tully, NY	6554
6614-X	Chem Lab Products, Inc., Anaheim, CA	6614
6691-X	Union Carbide Corp., Linde Division, Tarrytown, NJ [2]	6691
6793-X	Sea Containers, Inc., New York, NY [3]	6793
6859-X	Pyronetics Devices, Inc., Denver, CO	6859
6971-X	Chem Service, Inc., West Chester, PA [4]	6971
7052-X	Sonatech, Inc., Goleta, CA	7052
7052-X	Altus Corp., Palo Alto, CA	7052
7052-X	EG&G Environmental Equipment, Herndon, VA	7052
7052-X	Raytek, Inc., Mountain View, CA	7052
7052-X	Wilson Greatbatch Ltd., Clarence, NY	7052
7052-X	Hercules Inc., Wilmington, DE	7052
7052-X	Tadiran-Israel Electronics Industries Ltd., Tel Aviv, Israel	7052
7070-X	Englehardt Industries, Providence, RI	7070
7070-X	Lea-Ronal, Inc., Freeport, NY	7070
7070-X	American Chemical & Refining Co., Waterbury, CT	7070
7070-X	Auric Corp., Newark, NJ	7070
7070-X	Technic, Inc., Cranston, RI	7070
7070-X	Oxy Metal Industries Corp., Nutley, NJ	7070
7483-X	Hugonnet, S.A., Paris, France	7483
7483-X	Compagnie Generale Maritime, Paris, France	7483
7494-X	Airco Industrial Gases, Murray Hill, NJ [5]	7494
7495-X	General American Transportation Corp., Sharon, PA	7495
7544-X	Eastman Kodak Co., Rochester, NY	7544
7594-X	Bromine Compounds Ltd., Beersheva, Israel	7594
7595-X	American Cyanamid Co., Wayne, NJ	7595
7607-X	Gulf Oil Corp., Pittsburgh, PA	7607
7613-X	Rexnord, Inc., Brookfield, WI	7613
7616-X	The Kansas City Southern Railway Co., et al., Kansas City, MO	7616
7633-X	Sea Containers, Inc., New York, NY [6]	7633
7671-X	Sea Containers, Inc., New York, NY [7]	7671
7680-X	Sterling Drug, Inc., New York, NY	7680
7710-X	Midway Can Co., St. Paul, MN	7710
7744-X	Dow Corning Corp., Midland, MI	7744
7768-X	Plasti-Drum Corp., Lockport, IL	7768
7791-X	The Puerto Rico Ports Authority, San Juan, PR	7791
7830-X	Sea Containers, Inc., New York, NY [8]	7830
7897-X	Sea Containers, Inc., New York, NY [9]	7897
7938-X	Sea Containers, Inc., New York, NY [10]	7938
7940-X	Centennial Plastics, Inc., Camden, NJ	7940
8006-X	Bland Brothers Inc., New York, NY	8006
8006-X	Kilgore Corp., Toone, TN	8006
8014-X	Dow Chemical Co., Michigan Division, Midland, MI	8014
8019-X	Robertshaw Controls Co., Indiana, PA	8019
8025-X	Dow Chemical Co., Freeport, TX	8025
8037-X	Mauser-Werke G.m.b.H. (Mauser Packaging, Ltd.), New York, NY	8037
8039-X	Connecticut Bulk Carriers, Inc., Stamford, CT	8039
8045-X	Container Corp. of America, Wilmington, DE	8045
8051-X	Mauser-Werke G.m.b.H. (Mauser Packaging, Ltd.), New York, NY	8051
8099-X	Union Carbide Corp., Bound Brook, NJ [11]	8099
8101-X	Department of Defense, Washington, DC	8101
8144-X	Hercules Inc., Wilmington, DE [12]	8144
8171-X	Sea Containers, Inc., New York, NY [13]	8171

[1] To remove requirement that cracks after testing must be longitudinal to the axis of the cylinder and to authorize a guided bend test for cylinders that don't lend themselves to crush tests.

[2] To request amendment to allow deviation from marking exemption number on shipping papers.

[3] To authorize t-butyl hydroperoxide, classed as a organic peroxide, as an additional commodity.

[4] To renew and provide for passenger-carrying aircraft as an additional mode of transportation.

[5] To authorize water as an additional mode of transportation.

[6] To authorize t-butyl hydroperoxide, classed as an organic peroxide, as an additional commodity.

[7] To authorize t-butyl hydroperoxide, classed as an organic peroxide, as an additional commodity.

[8] To authorize t-butyl hydroperoxide, classed as an organic peroxide, as an additional commodity.

[9] To authorize t-butyl hydroperoxide, classed as an organic peroxide, as an additional commodity.

[10] To authorize t-butyl hydroperoxide, classed as an organic peroxide, as an additional commodity.

[11] To authorize a slightly larger box of the same construction authorized by the exemption.

[12] To authorize a 30-gallon DOT Specification 17E drum overpacked in a DOT Specification 17H drum as an additional package for shipment of spirits of nitroglycerin.

[13] To authorize t-butyl hydroperoxide, classed as an organic peroxide, as an additional commodity.

Application No.	Applicant	Parties to exemption
6526-P	Borden Inc., Columbus, OH	6526
6530-P	The Great Plains Welding Supply Co., Cheyenne, WY	6530
6762-P	Reliance Brooks Inc., Cleveland, OH	6762
6762-P	Lever Bros. Co., Inc., New York, NY	6762
7052-P	Rockwell International Corp., Anaheim, CA	7052
7052-P	General Electric Co., Gainesville, FL	7052
7060-P	Air Charter Services, Inc., Mansfield, MA	7060
7076-P	Reliance Brookds Inc., Cleveland, OH	7076
7777-P	Lang Engineering Co., Inc., Rochester, WI	7777
8006-P	Nichols-Kusan, Inc., Jacksonville, TX	8006
8226-P	Contrans, Hamburg, West Germany	8226
8344-P	Farwest Sports Inc., Olympia, WA	8344
8441-P	Department of Defense, Washington, DC	8441

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on July 11, 1980.

H. J. Sonnenberg,

Acting Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-21782 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes August 20, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8449-N	Tri-State Steel Drum Co., Inc., Graysville, GA	49 CFR 173.28(o), 178.118-10(a)	To authorize conversion of non-DOT specification tight head 18 gauge steel 55-gallon drums to DOT specification 17H except for markings for shipment of all commodities authorized in a DOT specification 17H drum. (Modes 1, 2, 3, 4.)
8450-N	Vought Corporation, Dallas, TX	49 CFR 173.92	To authorize shipment of rocket motors, Class B explosives, in non-DOT specification ⅜ inch polyethylene containers with steel bases. (Mode 1.)
8451-N	U.S. Department of Energy, Albuquerque, NM	49 CFR Part 173, Subpart C, 175.3.	To authorize shipment of small quantities, less than 25 grams, of certain Class A or B explosives, and pyrotechnics in 4 or 6 inch diameter pipes overpacked in strong outside packagings and described as "detonating fuze, Class C explosives" (Modes 1, 2, 4.)
8452-N	Scott Environmental Technology Inc., Plumsteadville, PA.	49 CFR 173.34(d)(1), 175.3	To authorize shipment of various nonflammable, nonliquefied compressed gases in DOT specification 39 cylinders without a safety relief device. (Modes 1, 4.)
8454-N	Thiokol Corporation, Brigham City, UT	49 CFR 173.93	To authorize shipment of propellant explosives (solid) Class B in a specially designed hopper tank similar to DOT specification 56. (Mode 1.)
8455-N	The Dow Chemical Company, Freeport, TX	49 CFR 173.154	To authorize shipment of salt coated magnesium granules in non-DOT specification water-tight, sift-proof, intermodal steel portable tanks as prescribed for calcium carbide. (Modes 1, 3.)
8456-N	Orval Tank Containers, Paris, France	49 CFR 173.315	To authorize shipment of various nonflammable and flammable compressed gases in a non-DOT specification IMCO type V portable tank. (Modes 1, 2, 3.)
8457-N	Texas Instruments Incorporated, Johnson City, TN	49 CFR 172.101, 175.3	To authorize shipment of "thium batteries, classed as a flammable solid, contained in specially designed electronic equipment. (Modes 1, 2, 4, 5.)
8458-N	E. I. du Pont de Nemours & Company, Wilmington, DE.	49 CFR 173.31(c), table 1, footnote (q).	To authorize DOT specification 111A100W2 tank cars (converted from 105A500W or 112A400W tank cars) for shipment of various corrosive and oxidizing materials to be retested every 10 years. (Mode 2.)
8459-N	Degussa, Frankfurt, Germany	49 CFR 173.346	To authorize shipment of methylmercaptopropionaldehyd (MMP), classed as a poison B, in non-DOT specification IMCO type I portable tanks. (Modes 1, 2, 3.)
8460-N	Westerwalder Eisenwerk, Weitefeld, West Germany	49 CFR 173.136, 173.245, 173.247, 173.249, 173.263, 173.264, 173.277, 173.294, 173.510, 173.605.	To authorize shipment of certain corrosive liquids and various other hazardous materials in non-DOT specification IMCO type I portable tanks. (Modes 1, 2, 3.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on July 11, 1980.

H. J. Sonnenberg,

Acting Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-21783 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-60-M

Saint Lawrence Seaway Development Corporation Advisory Board; Meeting

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 2:30 p.m., August 8, 1980, in the offices of the Seaway Corporation, 800 Independence Avenue, S.W., Washington, D.C. The agenda for this meeting is as follows: Opening Remarks; Approval of Minutes; Administrator's Report; Review of Programs and Operations; and Closing Remarks.

Attendance is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public including consumers may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than August 6, 1980, and information may be obtained from Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D.C. 20591; 202/426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued in Washington, D.C. on July 14, 1980.

D. W. Oberlin,

Administrator.

[FR Doc. 80-21474 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series No. 22-80]

Treasury Notes of July 31, 1982; Series U-1982

July 16, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,500,000,000 of United States securities, designated Treasury Notes of July 31, 1982, Series U-1982 (CUSIP No. 912827 KW 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated July 31, 1980, and will bear interest from that date, payable on a semiannual basis on January 31, 1981, and each subsequent 6 months on July 31 and January 31, until the principal becomes payable. They will mature July 31, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derivied from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, July 23, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, July 22, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from

commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each compeititve tender allootted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accpeted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7.Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Thursday, July 31, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, July 29, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive

tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

SUPPLEMENTARY STATEMENT: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-21921 Filed 7-17-80; 2:29 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 141
Monday, July 21, 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).

CONTENTS

	Items
Federal Energy Regulatory Commission	1
Federal Home Loan Bank Board	2
Federal Mine Safety and Health Review Commission	3
Federal Reserve System	4
National Credit Union Administration	5, 6
Nuclear Regulatory Commission	10
Parole Commission	7, 8
Tennessee Valley Authority	9

1

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., July 28, 1980.

PLACE: Room 9306, 825 North Capital Street, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: (Continuation of the closed meeting held July 10, 1980.) Disposition by the agency of two particular cases of formal agency adjudication.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[S-1382-80 Filed 7-17-80; 11:25 am]

BILLING CODE 6450-85-M

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., July 24, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Bank Membership and Insurance of Accounts—Sun Savings and Loan Association, San Diego, California.
Application for Bank Membership and Insurance of Accounts—Regency Savings and Loan Association, Fresno, California.
Application for Bank Membership and Insurance of Accounts—Mountain Savings and Loan Association, Lakeport, California.
Application for Bank Membership and Insurance of Accounts—Atlas Savings and Loan Association, San Francisco, California.
Application for Bank Membership and Insurance of Accounts—Antelope Valley Savings and Loan Association, Lancaster, California.
Application for Bank Membership—Lawrence Savings Bank, Lawrence, Massachusetts.
Application for Bank Membership—Ware Savings Bank, Ware, Massachusetts.
Application for Bank Membership—Northampton Institution for Savings, Northampton, Massachusetts.
Request for a Commitment to Insure Accounts—Marine Savings and Loan Association, Naples, Florida.
Modification of Conditions for Insurance of Accounts—Central State Savings and Loan Association, Mount Clemens, Michigan.
Branch Office Application—Citizens Federal Savings and Loan Association, Miami, Florida.
Preliminary Application for Conversion to a Federal Mutual Charter—Industrial Savings and Loan Association of South Bend, South Bend, Indiana.
Amendment to Resolution—Formal Conversion—Home Savings and Loan Association, Salisbury, North Carolina.
Merger—Navarro Savings Association, Corsicana, Texas INTO Continental Savings Association, Freeport, Texas.

No. 366, July 17, 1980.

[S-1385-80 Filed 7-17-80; 1:14 pm]

BILLING CODE 6720-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

July 16, 1980.

TIME AND DATE: 10 a.m., Wednesday, July 23, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor, MSHA v. The Anaconda Copper Co., Docket Nos. WEST 79-128-M, WEST 79-130-M and WEST 79-137-M. (petition for discretionary review).

2. Secretary of Labor on behalf of Gene Hand v. Zeigler Coal Company, Docket No. LAKE 80-292-D (petition for interlocutory review).

3. Secretary of Labor on behalf of Larry Long v. Island Creek Coal Company, & Langley & Morgan Construction Co., Docket No. VA 79-81-D (petition for discretionary review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1386-80 Filed 7-17-80; 2:56 pm]

BILLING CODE 6820-12-M

4

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, July 16, 1980. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Proposed Order of Investigation.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: July 16, 1980.

Cathy L. Petryshyn.

Assistant Secretary of the Board.

[S-1380-80 Filed 7-16-80; 4:14 pm.]

BILLING CODE 6210-01-M

5

NATIONAL CREDIT UNION ADMINISTRATION.

Notice of change in subject of meeting.

The National Credit Union Administration Board has determined that its business requires that the previously announced closed meeting on July 10, 1980, include an additional item which was closed to public observation:

Proposed Allocation of Additional Travel Funds for FY 1980. Closed pursuant to exemption (8).

Earlier announcement of this change was not possible.

The previously announced items were:

1. Administrative Actions under Sections 120 and 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).

2. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

3. Mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).

4. Personnel Actions. Closed pursuant to exemption (6).

The meeting was held at 10:30 a.m. in the Board Room, 7th floor, 1776 G Street N.W., Washington, D.C. Information may be obtained from Rosemary Brady,

Secretary of the Board, telephone (202) 357–1100.

Chairman Lawrence Connell and Board Members P. A. Mack and Harold Alonza Black voted unanimously to accept this addition to the agenda.

[S–1387–80 Filed 7–17–80; 2:56 pm]

BILLING CODE 7535–01–M

6

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, July 24, 1980.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Consideration of ADP Oversight Committee Recommended Five Year Plan (FY 1981).
3. Report on actions taken under delegations of authority.
4. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m., Thursday, July 24, 1980.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED.

1. Consideration of State Credit Union Insurance Applications. Close pursuant to exemption (9)(A)(ii).
2. Mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Proposed conversion. Closed pursuant to exemptions (8) and (10).
5. Consideration of ADP Oversight Committee Recommendations for Contractor to provide analysis phase for 109 System. Closed pursuant to exemption (9)(B).
6. Proposed Change of Station Policy. Closed pursuant to exemption (6).
7. Personnel Actions. Closed pursuant to exemption (6).

FOR MORE INFORMATION CONTACT: Joan O'Neill, Program Assistant; telephone (202) 357–1100.

[S–388–80 Filed 7–17–80; 2:56 pm]

BILLING CODE 7535–01–M

7

[OPO–401]

PAROLE COMMISSION.

TIME AND DATE: Thursday, 9 a.m.–12:30 p.m., July 24, 1980.

PLACE: The Washingtonian Motor Hotel, Route 270 and Shady Grove Road, Gaithersburg, Maryland.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Pending legislation—the Commission's approach to Criminal Code Reform, and its effect on the Commission's authority, structure and responsibilities.
2. Consideration of budget for balance of fiscal year 1980 and future budgets and budget requests.
3. Briefing on witness protection program and relationship to actual cases.
4. Consideration of present treatment of certain drug offenders on a case-by-case basis.
5. Hearing examiner's confirmation pursuant to 18 U.S.C. § 4204(a)(2)(A).

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, U.S. Parole Commission, (202) 724–3095.

[S–1383–80 Filed 7–17–80; 11:57 am]

BILLING CODE 4410–01–M

8

[OPO–401]

PAROLE COMMISSION.

TIME AND DATE: 1:30 p.m.–5:30 p.m., Thursday, July 24, 1980. 9 a.m.–4:30 p.m., Friday, July 25, 1980.

PLACE: The Washingtonian Motor Hotel, Route 270 and Shady Grove Road, Gaithersburg, Maryland.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of previous meeting.
2. Accreditation of U.S. Parole Commission.
3. Consent Agenda (Approval of Policy and Procedures Memos—80/13, 80/14, 80/16 and 80/17). Disussion will take place on the above only if specifically requested by a Commissioner at the meeting.
4. Special Committee Report by Benjamin J. Malcolm, Vice Chairman, discussing the following subjects: (a) Rescission Guidelines; (b) Reparole Guidelines; (c) Original Jurisdiction Declassification; and (d) Modification of 28 C.F.R. § 2.24(a).
5. Review and discussion of the Commission's policies, rules and procedures.

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research (202) 724–3095.

[S–1384–80 Filed 7–17–80; 11:57 am]

BILLING CODE 4410–01–M

9

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10 a.m., Monday, July 21, 1980.

PLACE: Conference room, B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTER FOR ACTION:

Power Item

Presentation to the Board of proposed determinations on ratemaking standards, including those required to be considered under Section 111 of the Public Utility Regulatory Policies Act of 1978. The standards about which determinations will be made involve: (1) cost of service, (2) declining block rates, (3) time-of-day rates, (4) seasonal rates, (5) interruptible rates, (6) load management techniques, and (7) special additional charge for new, electrically heated or cooled, energy inefficient homes.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that this meeting be called at the time set out above and that no earlier announcement of the meeting was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: July 16, 1980.

Approved:

S. David Freeman,

Richard M. Freeman,

Robert N. Clement.

[S–1381–80 Filed 7–17–80; 9:08 am]

BILLING CODE 8120–01–M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 21 and 22 (Changes) and 23, 1980.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Monday, July 21

9:30 a.m.—1. Budget Presentations (approximately 3 hrs) (Public Meeting).
—Inspection and Enforcement (Note: Replaces Nuclear Reactor Regulation, which is moved to 7/22).
2:00 p.m.—(As announced).

Tuesday, July 22

1:00 p.m.—(As announced).
2:00 p.m.—1. Budget Presentations (approximately 3 hrs) (Public Meeting).
—Nuclear Reactor Regulation (Note: Replaces Inspection and Enforcement, which was moved to 7/21.)

Wednesday, July 23

9:30 a.m.—1. Budget Presentations (approximately 3 hrs) (Public Meeting).

—Standards Development.
—Nuclear Material Safety and Safeguards.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Automatic telephone answering service for schedule update: (202) 634–1498, those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

[S–1391–80 Filed 7–18–80; 10:00 am]

BILLING CODE 7590–01–M

federal register

Monday
July 21, 1980

Part II

Interstate Commerce Commission

Implementation of Motor Carrier Act of 1980

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

[Corrected Notice [1] Ex Parte No. 55 (Sub-No. 45)] [2]

Appellate Procedures: Interim Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim rules and request for comments.

SUMMARY: Congress has adopted legislation which revises appellate procedures governing the Commission's handling of non-rail proceedings. The Commission has initiated this proceeding to implement Section 25 of the "Motor Carrier Act of 1980". In this proceeding rail and non-rail appellate rules would be merged into a sinlge rule governing all commission practice. Because the Act goes into effect on July 1, 1980, we are publishing these as interim rules to be used until final rules are adopted. Comments are requested on the feasibility of these interim rules as final rules.

DATES: Effective July 21, 1980. Written comments should be filed with the Commission on or before August 20, 1980.

ADDRESSE: Send an original and, if possible, 15 copies of comments to: Ex Parte No. 55 (Sub-No. 45), Room 5322, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Andrew J. Nosacek (202) 275–7023 or Donald J. Shaw, Jr. (202) 275–7292.

SUPPLEMENTARY INFORMATION: Section 25 of the Motor Carrier Act of 1980 revises those sections of the Interstate Commerce Act which govern the Commission's non-rail appellate procedures. As a result, we are revising our non-rail appellate rules (49 CFR 1100.97) to bring them into conformity with the new statutory provisions. The new provisions of the statute are patterned after the present rail appellate procedures. Accordingly, we are merging the rail and non-rail appellate rules into a single rule governing all Commission practice. The rail appellate rules (49 CFR 1100.98), adopted in *Rail Appellate Procedures—Revision of Rule 98*, 361 I.C.C. 591 (1979), would be slightly modified to accomplish this result and 49 CFR 1100.97 would be rescinded.

The new statute (and these rules) constitutes the first major revision of Commission non-rail appellate procedures in decades. The most significant change involves the provision for a two-step process in decision-making, i.e. an initial decision and one administrative appeal of right. Appellate action on this appeal would render a proceeding administratively final, regardless of whether the appellate decision affirmed, changed, or modified the initial decision. Further, in the absence of an appeal, an initial decision of a hearing officer would become an administratively final decision.

While further appeals of right to an appellate decision are no longer available, the rules provide for a discretionary appeal (petition for administrative review) of an appellate decision to the Commission. The petition is necessarily limited to cases presenting issues of general transportation importance, new evidence, and changed circumstances.

Where the requirement for an initial decision has been voided, pursuant to section 10322(c), a petition for administrative review may be filed to a division decision. When the Commission voids the requirement for an initial decision, parties may seek reopening on the basis of material error, clear and convincing new evidence, or substantial changed circumstances.

The rules provide that any proceeding, other than an application for operating rights, may be the subject of a petition for leave to reopen, at any time. This remedy is unwarranted in operating rights proceedings, because of their volume, the limited nature of the issues involved, and the ease in filing a new application.

As noted, the rules set out in the appendix represent an incorporation of the new non-rail appellate procedures into rule 1100.98. In addition, for better readability, they represent a proposed reorganization of rule 1100.98 in the following respects: The wording of subsection (a) is simplified and adapted to changes in the later subsections. Subsections (b) and (c) are retitled according to type of decision, and the provisions are reordered. Subsection (d) is eliminated as being largely duplicative, and its provisions merged into subsection (c). Subsections (e) and (f) are eliminated, and their provisions included in subsections (b) and (c). This change puts all provisions relating to a given type of decision in one place. The remaining subsections are unchanged except for sequence and minor changes in wording.

In this reorganization, some extraneous wording has been eliminated from rule 1100.98. Also, a minor substantive change has been made. The reference to a "petition for leave to file" has been eliminated from the provision concerning reopening of administratively final actions. To simplify the filing requirement at this stage, the information previously required in the petition for leave to file will be included in the petition to reopen.

Another change has been made in the rule for stays and petitions for other relief. Subsections (c)(6) and (e)(3) will impose a 10-page limit on petitions and replies. As we noted in Ex Parte No. 55 (Sub-No. 41), Administrative Stays in Non-Rail and Rail Proceedings, 45 FR 28176 (notice of proposed rulemaking), a page limitation will limit the administrative burdens associated with replies and should prevent the parties from relitigating the merits of the case. This proceeding is expanded to embrace Ex Parte No. 55 (Sub-No. 41) and reflects our consideration of the comments filed in that proceeding.

The rules set out in the appendix will be used by the Commission on an interim basis with respect to non-rail proceedings. The revised appellate procedures will apply to every decision entered after enactment of the Motor Carrier Act of 1980. Rule 97 will continue to apply only to appeals from, or petitions for review of, decisions served prior to enactment. The Commission is faced with an impracticable situation in which the due and required execution of the agency functions would be prevented by undertaking a rulemaking proceeding prior to the adoption of any rules. Thus, notice and comment for these interim rules are not required under 5 U.S.C. 553(b)(B). Public comments are invited on these interim rules as a basis for final rules, however. We shall act as fast as possible on formulating final rules.

This action does not appear to affect significantly the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10321 and 10322 and 5 U.S.C. 553 and 559)

Decided: July 2, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners

[1] The notice served July 9, 1980 is corrected to (1) indicate that Subsections (c)(6) and (e)(3) will impose a 10-page limit on petitions and replies, and (2) indicate that Ex Parte No. 55 (Sub-No. 41), *Administrative Stays in Non-Rail and Rail Proceedings*, was embraced in this case.

[2] This proceeding embraces Ex Parte No. 55 (Sub-No. 41), *Administrative Stays in Non-Rail and Rail Proceedings*.

Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

Appendix

§ 1100.97 [Rescinded]

(1) § 1100.97 is rescinded.

(2) § 1100.98 is revised to read as follows:

§ 1100.98 Appellate procedures.

(a) *Scope of rule.* These appellate procedures apply in cases where a hearing is required by law or Commission action. They do not apply to informal matters such as car service, suspension, or special permission actions. Requests for appellate relief may relate either to initial decisions or to Commission actions other than initial decisions. For each category, this rule describes the type of appeal permitted, the requirements to be observed in filing an appeal, provisions for stay of the action, and the status of the action in the absence of a stay.

(b) *Initial decisions.* This category includes the initial decision of an administrative law judge, individual Commissioner, employee board, joint board, division, or panel of the Commission.

(1) An appeal of right is permitted.

(2) Appeals shall be based on one or more of the following grounds:

(i) That a necessary finding of fact is omitted, erroneous, or unsupported by substantial evidence of record;

(ii) That a necessary legal conclusion or finding is contrary to law, Commission precedent, or policy;

(iii) That an important question of law, policy, or discretion is involved which is without governing precedent;

(iv) That prejudicial procedural error has occurred.

(3) Appeals shall detail the assailed findings with supporting citations to the record and authorities.

(4) Appeals and replies shall not exceed 30 pages in length, including the index of subject matter, argument, and appendices or other attachments.

(5) Appeals must be due within 20 days after the service of the decision or within any further period (not to exceed 20 days) as a division or the Commission may authorize. Replies to appeals shall be due within 20 days of the date the appeal is due for rail proceedings, and within 15 days for non-rail proceedings.

(6) The timely filing of an appeal to an initial decision shall stay the effect of the action pending determination of the appeal.

(7) If an appeal of an initial decision is not timely filed or the Commission does not stay the effectiveness on its own motion, the order set forth in the initial decision shall become the action of the Commission and shall be effective at the expiration of the time for filing, unless otherwise provided.

(c) *Commission actions other than initial decisions.* This category includes: a decision of a division in the first instance, where the requirement for an initial decision was voided; an action of the entire Commission in the first instance; and an action taken by a review board or division on an appeal filed under subsection (b) of this rule.

(1) A discretionary appeal is permitted. It shall be designated a "petition for administrative review," except that, when it is related to an action of the entire Commission in the first instance, it shall be designated a "petition to reopen."

(2) The petition will be granted only upon a showing of one or more of the following points:

(i) The prior action will be affected materially because of new evidence or changed circumstances.

(ii) The prior action was taken by a division in the first instance or by a review board or division in an appellate capacity, and involves a matter of general transportation importance.

(iii) The prior action was taken by the entire Commission in the first instance, and involves material error.

(3) To the extent the petition requests further hearing, rehearing, reargument, or reconsideration, the petition shall state in detail the nature of the relief requested and the reasons therefor. When in a petition filed under this section, a party seeks an opportunity to introduce evidence, the evidence must be stated briefly, must not appear to be cumulative, and explanation must be given why it was not previously adduced.

(4) The petition and any reply shall not exceed 20 pages in length. A separate preface and summary of argument, not exceeding 3 pages, may accompany petitions and replies and shall accompany those that exceed 10 pages in length.

(5) Petitions must be due within 20 days after the service of the action or within any further period (not to exceed 20 days) as a division or the Commission may authorize. Replies to petitions shall be due within 20 days of the date the petition is due for rail proceedings, and within 15 days for non-rail proceedings.

(6) The filing of a petition shall not stay the effect of a prior action except that the Commission may stay the effect of the action upon its own motion or on petition. A petition to stay may be filed in advance of the petition for administrative review or petition to reopen and shall be filed within 10 days of service of the action. No reply need be filed. However, if a party elects to file a reply, it must reach the Commission no later than 16 days after service of the action. A petition and any reply shall not exceed 10 pages.

(7)(i) In a rail proceeding, the action, if not stayed, shall become effective 30 days after it is served, unless the acting body provides for the action to become effective at an earlier date.

(ii) In a non-rail proceeding, the action, if not stayed, shall be effective on the date it is served, unless otherwise provided

(d) *Petitions to reopen administratively final actions.* Any person at any time may file a petition to reopen any administratively final action of the Commission other than an administratively final action in an operating rights application proceeding, pursuant to the requirements of paragraphs (c)(3) and (c)(4) of this section. A petition to reopen shall state in detail the respects in which the proceeding involves material error, new evidence, or substantially changed circumstances and shall include a request that the Commission make such a determination.

(e) *Petitions for other relief.* (1) A party may petition for a stay of an action pending a request for judicial review, for extension of the compliance date, for modification of the effective date, or for similar procedural relief. The reasons for the desired relief shall be stated in the petition, and the petition shall be filed not less than 10 days prior to the effective date of the action. No reply need be filed. If a party elects to file a reply, the reply must reach the Commission no later than 5 days after the petition is filed.

(2) When an action of the Commission is made effective on less than 15 days' notice, a petition for stay pending a request for judicial review shall be filed prior to the institution of court action and as close to the service date as practicable. No reply need be filed. Where time permits, a party may elect to file a reply.

(3) A petiton and reply shall not exceed 10 pages in length.

(f) *Exhaustion of remedies and judicial review.* These rules do not relieve the requirement that a party exhaust its administrative remedies before going to court. Any action appealable as of right must be timely appealed. If an appeal, discretionary appeal, or petition seeking reopening is filed under paragraphs (b) or (c) of this section, before or after a petition

seeking judicial review is filed with the courts, the Commission will act upon the appeal or petition after advising the court of its pendency unless action might interfere with the court's jurisdiction.

[FR Doc. 80-21344 Filed 7-18-80; 8:45 am]

BILLING CODE 7035-01-M

---

49 CFR Part 1100

[Ex Parte No. 55 (Sub-No. 45)]

Appellate Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing appeals in interim rules and request for comments.

SUMMARY: The Commission recently adopted interim appellate procedures under this same titled proceeding. That decision is being published in the Federal Register in this issue, after the effective date of the Motor Carrier Act of 1980. Decisions after July 2, 1980, which would be governed by these new appellate procedures will already have been served prior to the Federal Register publication of Ex Parte No. 55 (Sub-No. 45). Therefore, persons may not have sufficient time to file appeals or petitions under 49 CFR 1100.98 where the time for filing runs from the service date of the decision (July 9, 1980). Consequently, for decisions served between July 2, 1980, and July 21, 1980, the time for filing is hereby extended so that the allotted time for filing runs from July 21, 1980.

DATE: This notice is effective July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Andrew J. Nosacek, 202-275-7023.

By the Commission, Darius W. Gaskins, Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21345 Filed 7-18-80; 8:45 am]

BILLING CODE 7035-01-M

---

49 CFR Parts 1041; 1047

[No. MC-C-3437 (Sub-No. 12)]

Ex-Air Motor Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Interstate Commerce Act formerly provided an exemption from regulation for transportation by motor vehicle incidental to transportation by aircraft. As described in the Supplementary Information below, recent amendments to the Act clearly set out the exact scope of exemption, the limited exception to that exemption, and the specifics of the "emergency side" of the exemption. The new statutory language is all inclusive, and, therefore, obviates the need for any complementary regulations interpreting it. Accordingly, the present regulations set forth at 49 CFR 1041.22 and 1047.40 will be deleted in their entirety.

EFFECTIVE DATE: This action is effective July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Frederick T. Stocker, 202-275-7953 or Donald J. Shaw, Jr. 202-275-7952.

SUPPLEMENTARY INFORMATION: The deletion regulations discussed in this document is designed to complement recent changes in this Commission's enabling statute (49 U.S.C. 10526(a)(8)). This section of the Interstate Commerce Act formerly provided an exemption from regulation for transportation by motor vehicle incidental to transportation by aircraft (49 U.S.C. 10526(a)(8)). Pursuant to regulations promulgated to interpret that exemption, motor carriers were limited to specific geographical areas surrounding airports, within which they could pick up or deliver air freight or passengers without holding operating authority from this Commission. As will be detailed below, the concerned exemption in the amended act distinguishes between the ex-air transportation of property and passengers.

Congress has amended the act to eliminate all mileage limitations with respect to the scope of the exemption from regulation for the ex-air transportation of property. Specifically, the amended act now exempts the transportation of property by motor vehicle, provided it is part of a continuous movement which, prior or subsequent thereto, has been or will be transported by an air carrier.

The amended act does contain an exception to this expanded exemption. Absent specific agreement by the United States, this exemption does not automatically apply to the motor carrier movements of property which are a part of a continuous prior or subsequent movement by foreign air carrier. Foreign carriers would only be able to take advantage of this exemption if there was a specific bilateral agreement allowing them to do so and approval by the Civil Aeronautics Board or its successor agency of such authority. This exception to the exemption represents an expression of Congressional expectation that such advantageous rights would be granted to foreign air carriers where similar rights or concessions are granted to U.S. air carriers in individual bilateral agreements.

Additionally, the act also exempts occasional transportation by motor vehicle, in substitution for transportation by aircraft, because of weather conditions, mechanical failure of the aircraft, or other causes beyond the control of the air carrier or shipper. This statutory change essentially adopts the prior Commission position, as developed in our regulations, concerning the so-called "emergency side" of the involved exemption.

As described above, the amended act clearly sets out the exact scope of the "property side" of the exemption, the limited exception to that exemption, and the specifics of the "emergency side" of the exemption. The new statutory language is all inclusive, and, therefore, obviates the need for any complementary regulations interpreting it. In these premises, the present regulations set forth at 49 CFR 1047.40, entitled "Motor transportation of property incidental to transportation by aircraft" will be deleted in their entirety.

Additionally, the amended exemption does not alter the scope of the so-called "passenger side" of the incidental-to-air exemption. The passenger exemption is detailed at 49 CFR 1047.45. The Commission recently examined this exemption, and concluded that no change in our codified interpretation was warranted. *Motor Transp. of Passengers Incidental to Air,* 128 M.C.C. 938 (1978). Consequently, no alteration of 49 CFR 1047.45 will be made at this time.

One final change in our regulations is necessitated by the amended act. Subsections (a) and (b) of 49 CFR 1041.22 deal generally with interpreting the operating authority of regulated motor carriers serving designated airports or the airfreight facilities of specified air carriers. This particular section of our regulations is superseded in large part by expansion of the exemption for the motor carrier transportation of ex-air shipments of property. Motor carriers that formerly handled ex-air traffic pursuant to their regulated authority will now be able to operate under the expanded exemption. Consequently, we believe that the regulations set forth at 49 CFR 1041.22 should also be deleted in their entirety. We are aware, however, that the motor carrier transportation of ex-air traffic performed in conjunction with foreign air carrier service will still have to be provided by regulated carriers in those instances where the foreign air carrier has not reached an appropriate agreement with the United States. Motor

carriers performing these operations will need specific operating authority from this Commission. This limited need for such regulated authority does not warrant maintenance of the regulations set forth at 49 CFR 1041.22.

This action is required by amendment to 49 U.S.C. 10526(a)(8). Public comment is unnecessary and thus not required, 5 U.S.C. 553(b)(B).

§§ 1041.22 and 1047.40 [Deleted]

Accordingly, 49 CFR 1041.22, and 1047.40 are deleted.

This action will not affect significantly the quality of the human environment or conservation of energy resources.

Issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: July 1, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21346 Filed 7-18-80; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X

[Ex Parte No. MC-141]

Policy Statement on Motor Carrier Pooling Applications

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposal to issue a statement of general policy.

SUMMARY: Changes to ICC's enabling statute respecting the pooling or division or transportation or earnings between motor carriers (49 U.S.C. 11342) have recently been enacted. That legislation alters present law by adding statutory criteria to the consideration of motor carrier pooling agreements which in turn requires alteration of our informal pooling application of our informal pooling application procedures. This notice sets forth proposals for the contents of motor carrier pooling applications as well as proposed Commission procedures for determining and processing such applications.

DATE: Written comments should be filed at the folllwing address on or before August 20, 1980, and should refer to Ex Parte No. MC-141.

ADDRESS: Send comments (an original and 15 copies where possible) to: Office of Proceedings, Section of Finance, (Room 5414), Ex Parte No. MC-141, Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bruce Kasson (202-275-7655).

SUPPLEMENTARY INFORMATION: The new motor carrier reform legislation alters the way in which the Commission is to decide pooling applications under 49 U.S.C. 11342. Up to now, the Commission has granted pooling applications, after hearing, if (a) the carriers involved assent to the pooling or division, and the Commission finds that the pooling or division of traffic, services, or earnings, (b) will be in the interest of better service to the public or of economy of operation, *and* (c) will not unreasonably restrain competition.

The new legislation requires an additional, initial decisional stage. Under the legislation, a pooling agreement must be submitted to the Commission for approval not less than 50 days before its effective date. In this 50-day period, the Commission must make an initial determination as to whether the poolIng agreement is of major transportation importance *or* whether there is substantial likelihood that the agreement will unduly restrain competition. If the Commission decides negatively on both factors, the legislation requires the Commission to approve the pooling agreement *without hearing*. If the Commission decides positively on either factor, a hearing must be held. That hearing is held for the purpose of examining the pooling agreement under the same statutory criteria we have been applying.

In the past, carriers have submitted pooling applications according to informal informational requirements specific by our Section of Finance. Written regulations were deemed unnecessary because of the small number of pooling applications submitted to the Commission each year (approximately 7 motor carrier pooling agreements in each of the last 2 fiscal years). This small number prompts us to issue this policy statement rather than issuing formal regulations.

Contents of a Pooling Application

We propose that the initial submission of a pooling application consist of a verified pleading along with the filing fee.[1] The application should include the following categories of information:

(1) An identification of all the carriers who are parties to the pooling agreement,

(2) A general description of the transaction,

(3) A specific description of the operating authorities sought to be pooled,

(4) The establishment that the agreement is a genuine pooling arrangement and nothing else (as opposed to a lease or interline arrangement),[2]

(5) The establishment that there has been some level of prior competition between applicants on the transportation sought to be pooled,[3]

(6) An assessment of how the pooling arrangement will affect present and future competition in the area,[4]

(7) Evidence that rates set for traffic moving under the agreement do not violate the restrictions on collective ratemaking contained in the Act and Commission regulations,

(8) The relative transportation importance of the pooling arrangement,[5] and

(9) A statement of the energy and environmental effects of the agreement.

To be included as appendices, applicants would be asked to submit: (1) A copy of the pooling agreement, (2) a copy of the specific operating authority of each carrier which is the subject of the pooling agreement, (3) a balance sheet and income statement of each applicant, and (4) a caption summary (for **Federal Register** publication) of the pooling transaction sought to be approved in case a hearing is found to be necessary (to prevent delays in processing the application so as to meet new statutory time limits for motor carrier cases).

We wish to alert prospective pooling applicants that we may require (in the future) the filing of special or periodical reports under 49 U.S.C. 11145 by motor carriers who pool their traffic to ensure that such operations do not become anticompetitive.

Case Processing

After the pooling application is received (not less than 50 days before its contracted effective date [6]), the Commission may either reject it [7] or make a decision on the first decisional phase required by the legislation. That decision will determine whether the pooling agreement is of major transportation importance *or* whether there is a substantial likelihood that the pooling agreement will unduly restrain competition. In the vast majority of cases, we foresee that neither of these 2 factors will be present and, consequently, a grant of the application without a hearing would occur. However, where either factor is found to exist, the application would be published in the Federal Register using

[1] Presently $100. See 49 CFR 1002(d)(20).

[2] See, for instance, *Red Ball Motor Frt.-Pooling-Thunderbird*, 122 M.C.C. 557 (1976); *American Rail Box Car Co.-Pooling*, 347 I.C.C. 862 (1974); *Consolidated Freightways Corp. of Del., Pooling*, 109 M.C.C. 596 (1971); *Application of Pullman Co. under Sec. 5(1), I.C.C. Act*, 259 I.C.C. 41 (1944).

[3] See *Red Ball* and *Application of Pullman, supra*, note 2.

[4] Under this criterion, applicants will be required to describe the transportation market (in terms of commodities and geographic areas or points) sought to be pooled, the number of competitors actively operating in that market, and the extent of competition (in terms of amounts of traffic and relative market shares between competitors) within that market. See the Advance Notice of Proposed Rulemaking in Ex Parte No. 55 (Sub-No. 38F), *Antitrust and Competition Factors In Motor Carrier Finance Cases*, 127 M.C.C. 657 (1980), served April 16, 1980.

[5] Applicants will be expected to analyze the transaction in terms of the information submitted under item (6).

[6] Nothing in the new legislation prohibits the Commission from imposing conditions to its grant of a pooling agreement. For example, the Commission could require an extended effective date if the application is filed less than 50 days before its contractual effective date, or we might require that the agreement provide that any suitably authorized line-haul carrier be permitted to become a party to the agreement—to prevent an undue restraint of competition. See *Red Ball, supra* note 2, at 567.

[7] Because, for instance, what is proposed is not a bona fide pooling arrangement or because the Commission lacks jurisdiction over the transaction.

the caption summary filed with the application and set for a hearing to consider the issues further. Since the statutory standards for this second phase are identical to those which have been in effect since 1940, the pooling application would receive the same type of consideration that pooling applications have traditionally received.

Conclusion

Through this policy statement, we hope to alert carriers to the requirements for filing pooling applications under the new legislation and to facilitate processing of these applications. The proposed policy statement, therefore, invites the public and motor carriers to comment on the text of this document and to offer suggestions as to how it may be improved. Specifically, we would appreciate suggestions as to the contents of a pooling application so that we may better be able to analyze the transaction vis-a-vis the new statutory criteria: the relative transportation importance of the pooling arrangement and the likelihood of the arrangement causing an undue restraint of competition.

This notice will not significantly affect either the quality of the human environment or conservation of energy resources. See 49 CFR 1106, 1108.

This notice is issued under the authority contained in 49 U.S.C. 10321, 11342, and 5 U.S.C. 553 and 559.

Dated: July 7, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-21347 Filed 7-18-80; 8:45 am]

BILLING CODE 7035-01-M

federal register

Monday
July 21, 1980

Part III

U.S. Water Resources Council

State Water Management Planning; Proposed Program Guidelines

U.S. WATER RESOURCES COUNCIL

18 CFR, Parts 703, 740

State Water Management Planning; Proposed Program Guidelines

AGENCY: U.S. Water Resources Council.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The U.S. Water Resources Council (Council) proposes to amend the guidelines for implementing the State Water Management Planning Program (Program). A major part of this program includes providing financial assistance for comprehensive State water and related land resources management planning to all States, including the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico and the Virgin Islands. The guidelines contain requirements for the preparation, submission and review of programs, work plans, and annual applications. If such programs, work plans and annual applications meet the requirements of this part, the State will receive available grant funds allocated on a formula basis. In reviewing each application, the Council's action will be to ensure that States are using grant funds to address and perform the comprehensive management planning function intended by the Act.

The proposed guidelines are published under authority of Title III of the Water Resources Planning Act of 1965 (as amended), Pub. L. 89–80 (42 U.S.C. 1962 (c)). The publication of these proposed guidelines represents an update of the guidelines published July 29, 1970, and amendments thereto published September 3, 1970, and November 29, 1974, 18 CFR 703.1–13.

DATES: Comments must be received by September 5, 1980, 4:30 P.M., E.D.S.T.; the proposed effective date of the guidelines would be upon publication of the final guidelines. Hearings will be held at the places and on the dates indicated below.

ADDRESSES: Send comments and requests to speak to: Denzel L. Fisher, State Programs Division, U.S. Water Resources Council, 2120 L Street, NW., Washington, DC 20037. See Section 3, "Opportunity for Public Comments."

HEARINGS: Public Hearings will be held in three cities, beginning at 9:30 A.M. local time on the dates and at the locations specified below.

City	Hearing date	Request to testify[1]	Location
San Francisco, CA.	Aug. 22, 1980	Aug. 18, 1980	450 Golden Gate Ave., Room 13029.
Kansas City, MO.	Aug. 26, 1980	Aug. 21, 1980	601 E. 12th St., Room 114.
Washington, DC.	Aug. 28, 1980	Aug. 25, 1980	2120 L St., NW., Lower Level Conf. Rm.

[1] To be received by 4:30 p.m., E.D.S.T.

FOR FURTHER INFORMATION CONTACT:
John D. Rivera, Director, State Programs Division, U.S. Water Resources Council, 2120 L Street, NW., Suite 800, Washington, DC 20037, (202) 254–6446.
Denzel L. Fisher, Deputy Director, State Programs Division, U.S. Water Resources Council, 2120 L Street, NW., Suite 800, Washington, DC 20037, (202) 254–6446.

SUPPLEMENTARY INFORMATION: Through the Water Resources Planning Act, the Congress authorized a grant program to assist States in comprehensive planning of intrastate and interstate water and related land resources. The program was specifically intended to encourage increased State participation in Federal-State comprehensive water and related land resources planning. The basic objective was to assit States in increasing their level of effort in water resources planning through financial assistance.

The role of States as the focal point for water resources planning and management was further emphasized in the President's June 6, 1978, Water Policy Message. Specifically, the President proposed an increase in funding from $3 million to $25 million annually for the existing grant program. Proposed Administration amendments to Pub. L. 89–80, found in H.R. 2610 (as introduced on March 5, 1979) and S. 480 (introduced Feb. 26, 1979, as S. 833 and later combined with S. 480) would expand the scope of the current program to assist States in developing and maintaining a total water management capability by improving the quality and effectiveness of the State water resources management. The President proposed an additional $25 million annually in grants to States to assist in establishing the implementing water conservation technical assistance programs.

In Fiscal Year 1980, the grant program was operated under the original set of guidelines written for the program in 1967 and amended in 1974. The guidelines were not revised for Fiscal Year 1980 in anticipation of new authorizing legislation, which would have greatly expanded the scope of the program. When the legislation was not enacted, a decision was made by the Council Chairman to operate under the existing guidelines so that States would not be further penalized by untimely grant awards. These guidelines, proposed today, are written within the constraints of the existing statute. They include several administrative changes in accordance with Federal grant management regulations and changes, within existing authority, which expand the scope of the program in keeping with the increase in available grant funds.

I. Introduction

The Council proposes to amend Chapter VI of Title 18 CFR by deleting the existing Part 703 and by adding a new Part 740. The proposed guidelines would fulfill the requirements in Title III of the Water Resources Planning Act (Act), Pub. L. 89–80.

In recognition of the increasing need for improved management of water and related land resources of the Nation, Title III of the Act authorizes a program of financial and program assistance to States for the development and modification of water management planning programs. The program is intended to assist States in developing and maintaining a total water management planning capability.

In the President's Water Policy Message of June 6, 1978, he emphasized the role of the States as the focal point for water resources management. This program is designed to provide financial and program assistance to States to strengthen that role by increasing the capability of States for developing and modifying comprehensive water management planning programs. This increased State capability, coupled with improved cooperation and coordination with Federal, State and local governments, should provide the mechanism for States to establish priorities and procedures for implementing water resource programs that will impact regional, interstate and national priorities programs.

Although the sums granted have not been large in relation to other Federal programs, many States have come to rely on the existing Title III program because, unlike other Federal grant programs, the funds are flexible enough to permit a wide range of program activities. The intention of the existing program was to provide seed money for comprehensive water resources planning in an effort to *increase* State participation in existing planning efforts. Funds have been used to support necessary and beneficial planning activities such as data compilation and

data base development, information dissemination, and preparation of studies and other elements of comprehensive water plans. In that regard, they also have been used for support services such as travel, purchases of office equipment, development and printing of maps and reports, and training of professional staffs. In addition, States have utilized grant funds for planning related coordination activities such as participation in river basin commissions, interagency committees, and interstate organizations. With Council approval, they also have been used to fund unanticipated needs which arose during a grant year.

The State Water Management Planning Program is intended to provide the States with a mechanism for increased effectiveness in the management of water and related land resources. The States are not mandated by this program to develop or establish specific management planning elements, but they are obligated to determine, on a continuing basis, goals and objectives based on State water resources policy, and the means and priority by which those goals and objectives will be met.

In reviewing grant applications, the Council's concern will not be restricted to content of the programs in the State work plan, but on the reasonable use of grant funds in terms of the purposes of the Act. In specific terms, the Council is not intent on, nor given the authority to, alter the design of a State's comprehensive management planning program. The Council's actions will be to ensure that States are using grant funds to address and perform the comprehensive management planning function intended by the Act.

II. The Proposed Guidelines

Section 740.2 provides a series of definitions for terms used extensively in these implementation guidelines.

The definition of "State water management planning" intends to convey those activities which will be eligible for funding under the program. Most activities which the State undertakes for the purposes of planning for the management of the State's water resources are eligible for funding, except those for the design and construction of specific water projects, the purchase of rights-of-way or easements for construction of specific projects, and the enforcement of laws, regulations and ordinances. However, the activities necessary for determining the need for specific projects will be eligible under the program. Other activities may include the *development* of laws, rules, regulations, ordinances or other applicable statutes. The efforts expended by such bodies as State legislatures, city and county commissions and councils, and other governing bodies in enacting these statutes may not be included as eligible activities, in accordance with Federal Management Circular 74–4, except that travel, transportation and associated expenses of such individuals may be included as eligible when such expenses are directly attributed to carrying out this program and are otherwise eligible under the provisions of these guidelines. Additionally, services in support of activities of a water management planning program such as personnel, budgeting, office equipment and other services are eligible activities under the program, in accordance with applicable Federal management requirements for grants to States.

"Designated Agency" means an entity of the State government chosen by the Governor to administer the grant program. The designated State agency will be responsible for program development and modification, and for acting as liaison with the Council. Matters dealing with the grant program will be handled through the designated agency.

"Grant agreement" means a document executed by the authorized official of the Water Resources Council and by the authorized represetative of the State agency designated as the grant recipient containing the agreed terms and conditions of the approved grant offer and award.

"Grant period" means a 12-month period specified in the grant agreement during which program funds are authorized to be expended, obligated or firmly committed by the grantee for the purposes specified in the Act, in the grant agreement, and in these guidelines.

"Program period" means the period beginning on October 1, 1980, and extending through the authorized life of the Program.

"Water management planning need" is defined as the basis for establishing criteria for assessing each State's need for assistance under the Program. The formula for distributing funds annually to States specifies that a portion of the funds shall be distributed on the basis of "need for water management planning," after taking into consideration population, land area, and per capita income. The means for evaluating State need is not part of these guidelines because the probability of change in the criteria is high from year-to-year. The basis for the assessment will be transmitted to States prior to each year's funding cycle.

Section 740.3 provides a description of the procedures for submitting an annual application to the Council for funding of State water management programs.

Immediately upon publication of the final guidelines in the **Federal Register**, the Council will send a copy to each State and an invitation to submit an application for the initial funding year under these guidelines. With this invitation will be an estimate of the total amount of funds which may be made available under the appropriation. For each succeeding year, the Council will notify each State of the estimate of the total amount of funds which may be made available and invite them to submit an application for funds. This notification will be within 30 days after the President's budget message, which is usually given the third week of January each year. The estimate of the total amount of funds which may be made available to each State will be based on the total amount of funds requested for the State Water Management Planning Program in the President's budget. The formula for distribution of funds in Section 740.6 will be applied to the budget request. The amount of funds based on the assessment of "need for water management planning" will be computed on an equal basis for the purpose of providing the annual estimate of funds available.

Section 740.3 has two distinct purposes. It delineates what the Council must provide to the States in terms of an application package and sets the minimum eligibility requirements for the program.

As part of the application package, the Council would provide specific forms and instructions for completing the annual application. The application package is a five-part process, as required by the Office of Management and Budget Circular A–102, that includes a general grant information sheet, project approval information form, forms for the program budget, a program narrative, and the several assurances a State would have to provide as conditions of the grant. The program narrative section will include the work plan and other program descriptions required by these guidelines. The assurances required are the same as those required by every Federal grant program.

In addition to the application package, the Council will provide each State with the criteria to be used in assessing the need for financial assistance. "Need" is one criterion set forth in the enabling legislation in determining the overall allocation of funds. The need criterion is not delineated in the proposed guidelines because it will be dynamic

and therefore changeable from year to year.

The Council also will provide each State with an operations manual which will specify in greater detail the purposes of grant and the administrative procedures adopted to run the grant program. All applicable Federal Circulars will be included with elaboration of pertinent points.

Each State wishing to participate in the program shall submit an application which describes its water management planning program. Such description shall be submitted with the first annual application and amended or modified only on an as-needed basis. On the occurrence of significant modifications to the program, revisions shall be submitted to the Council for review. This requirement prevents needless duplication of effort from year to year and provides the Council with periodic updates of State water management planning programs.

The annual work plan, submitted with each application, will include a description of specific activities to be undertaken for the year for which funds are being applied. The work plan will also include expected accomplishments during the year and expected dates during each quarter for which certain major accomplishments can be recorded. Thus, a listing of milestones may include such things as completion of major segments or elements of water quality plans or delineation of a targeted percentage of floodplains in the State.

Section 740.3(d)(8) would require the States to involve the general public in the program in accordance with State law. The involvement may include such things as establishing task forces, public notices, public hearings, workshops, seminars, etc. This description should include the proposed schedule, if appropriate, and the target audience for the purpose of development, modification and/or implementation of the program.

In the event that some States will not apply for the full amount of funds available or in the event that all funds are not used during the program year, other States may wish to apply for these additional funds. Under § 740.3(d)(7) those States desiring to do so should submit a description of those activities for which additional funds would be utilized and their order of priority. This will enable the Council to determine funding priorities in the event that more requests are received than additional funds available.

Section 740.4 sets forth the proposed eligibility requirements under the State Water Management Planning Program. The Council is *not* interested in dictating to the States the manner in which the requirements are addressed. Therefore, no minimum criteria have been set. It is up to each State to set the priorities within their respective programs.

Overall, the Council's interest is that each State address as many elements of water management planning as are necessary to form a total water management planning program which is in the State's best interest.

Section 740.5 provides procedures the Council will use in reviewing and approving annual applications for financial assistance. The Council first must determine that the program meets all the requirements and, after the first year, that the State adequately demonstrates through reporting, on-site visits and other relevant information that the work plan submitted with the application is being followed.

If, during the course of a program year, a State determines a need to revise the work plan or budget, the State may submit a request for revision. A request for revision must be submitted for the Council's approval when major changes in the work plan are anticipated, such as cancellation of a project, or change in emphasis from one project to another, but not when insignificant changes are made, such as time or site changes for a technical seminar. Should the revisions require A–95 review, additional time will be granted to complete the process.

Section 740.6 describes the manner in which available funds for each State will be distributed. Prior to receiving financial assistance each year, a State must submit an application which must be approved by the Council. Financial assistance may be granted to each State based on the funding distribution formula in § 740.6 (c), (d), and 9(e) and must be equally matched by the State in carrying out the State water management planning program.

For the amount of funds that will be determined by each of the factors of population, land area, and per capita income, the standard deviation will be computed. For any of the factors for any States that are above or below two standard deviations from the mean for all States, the amount will be adjusted such that no State will be awarded more funds for any factor that exceeds two standard deviations and no State will receive less funds for any factor that falls below two standard deviations. Standard deviation is a common statistical computation that will make allowances for a few isolated data points that may be extreme in comparison to the average. In this case, the extremes are excessive in terms of the direct relationship to the funds allocated for each factor.

Section 740.6(d) sets forth the factors to be used in determining the amount of funds to each State for water resources management plannning.

Each State will receive an equal share which will not exceed $100,000. The purpose of this base amount is to assure each State of the probability of a set amount of funds available each year. This amount was based on an original request of $50 million annually to be authorized for the program. The amount of the equal share will be based on annual appropriations and will equal $100,000 only if such appropriations equal or exceed an authorization of $50 million. Should appropriations fall below this level, the equal share will be adjusted accordingly.

One-third of the remaining balance after accounting for an equal share will be distributed on the basis of the latest official population estimates of the U.S. Department of Commerce, using the assumption that there is a direct correlation between the financial assistance required and the number of people, or target audience, for which a State water management planning program will be developed. The ratio of each State's population to total population is computed by dividing the State population by the total population. This ratio then is multiplied by the total funds available for the population factor to determine each State's share based on population. The higher the population of a State, the more funds a State will receive.

One-third of the remaining balance of the funds, after accounting for the equal share and population, will be distributed on the basis of a State's land area, which includes inland waters, using the assumption that there is a direct correlation between the financial assistance required and the land area for which a State water management planning program will be developed. The ratio of a State's land area to the total land area of the United States and the amount of funds to each State for this factor will be computed in the same manner as for population. The larger the land area of the State, the larger amount of funds a State will receive.

One-third of the remaining balance of the funds after accounting for the equal share to each State, population and land area will be distributed on the basis of the reciprocal of the latest official per capita income estimates of the U.S. Departtment of Commerce. The reciprocal of each State's per capita personal income is computed by dividing 1 by the per capita personal income figure for the State. The reason for using the reciprocal is to place more emphasis on lower per capita personal

income under the assumption that those States will have fewer resources and are in greater need of financial assistance. The ratio of each State's per capita personal income is computed by adding the reciprocals of all the States and dividing each State's reciprocal by this total. The amount of funds based on this factor will be determined by multiplying the ratio by the total funds available for this factor. The lower the per capita personal income for a State, the larger the amount of funds that will be available.

The remainder of the funds after accounting for the equal share, population, land area and per capita personal income will be distributed on the basis of an assessment of each State's application and program by the Council. Prior to issuing an invitation for submission of applications, the Council will establish criteria to be used in assessing need for assistance. The criteria to be used will include but will not be limited to the applications, quarterly and annual reports, on-site visits, and/or other available information.

Under 740.6(e), if a State fails to apply for all or part of the funds made available to such State for any given year within 90 days after notification of the estimated allocation of funds, that portion will be withdrawn from the reserve for that State and made available for redistribution during the same year to those State demonstrating a desire to apply for additional funds and the ability to match such funds.

If a State fails to obligate all the Federal funds awarded within the grant period, that portion unobligated will be returned to the Council within 30 days after submission of the final Financial Status Report. The funds will be made available for normal distribution with other funds appropriated for the following fiscal year.

To apply for funds available for redistribution under Section 740.6(e), a State will submit an incremental request with the annual application. This incremental request will include an addition to the work plan and budet request which indicates other program elements, in order of priority, for which a State wishes to receive additional funding should such funds become available.

Each State, in applying for financial assistance, will assure that in the use of program funds it will comply with the provisions of each assurance found in the application forms for the program. These assurances are outlined in the OMB Circular A–102 and are standard requirements for all Federal grants to State governments. These assurances are subject to a program audit.

On May 24, 1977, the President issued Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, and subsequently instructed all Federal agencies to implement the Executive Orders. The President placed the lead responsibility for implementing the Executive Orders on the Council. To implement the Executive Orders, the Council has, in the past, required in the standard assurances that the States must comply with the Executive Orders. The Council has proposed in its regulations implementing the Executive Orders **Federal Register**, July 17, 1980), that States assure the Council that in the use of program funds they would comply with the *provisions* of the two Executive Orders. The Council is most interested in comments on this subject.

E.O. 11988 (Floodplain Management) requires that Federal action be taken to reduce the risk of flood loss to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains. Each Federal agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain and to ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management.

E.O. 11990 (Protection of Wetlands) requires Federal action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. It stresses the importance of avoiding actions which would impact upon wetlands.

Section 740.7 provides detailed information on the administrative requirements under the State Water Management Planning Program. Program funds as referred to in the guidelines mean all Federal funds granted to the State under the State Water Management Planning Program plus all non-Federal funds, i.e., State, local or other sources, used to match the grant.

All program funds, both Federal and non-Federal, used for matching the grant would have to be obligated within the grant period unless the Council grants an exception or an extension. The budget and work plan submitted with the application will be on a 12-month basis and will be approved by the Council, including amendments. This provision was included to enable the States a full 12 months in which to obligate the program funds. Since appropriations usually are not available at the very beginning of each fiscal year, a State would be delayed in obligating funds if the obligations has to be incurred during the fiscal year rather than the 12 month period. A request for extension of the grant period must be submitted to the Council in writing and must justify the need for an extension and demonstrate the reason why the activities should not be continued with the following year's money.

Should a State continue to show substantial unobligated funds at the end of the year, the Council will consider these circumstances in assessing a State's need for assistance in subsequent years. The unobligated balances may reflect the availability of excessive funds to achieve the objectives outlines in the State's water management planning program. Should this be the case, the funds allocated based on need may be reduced until the documentation warrants a reconsideration of the assessment in determining the amount of funds to be distributed based on need for water management planning.

Attachment O of the Office of Management and Budget's Circular A–102 provides standards for grantees in establishing procedures for the procurement of supplies, equipment, construction and other services with Federal grant funds. The standards contained in Attachment O do not relieve the States of the contractual responsibilities arising under its contracts. States may use their own procurement regulations which reflect applicable State law, rules and regulations provided that procurements made with Federal grant funds adhere to the Standards set forth in Attachment O.

Funds used to match the grant must meet the following criteria and procedures:

(1) The source of funds used to match the grant does not have to be solely from State revenues. Funds also may be used to match the grant from contributions, both cash and in-kind, donated by other non-Federal public agencies and institutions, and private organizations and individuals. Federal funds or property from another Federal program may not be used to match the grant funds unless it is specifically allowed by applicable Federal laws or regulations.

(2) Program funds for the State water management planning program, both Federal grant funds and non-Federal funds used to match the grant, may not be used to match grant funds of another Federal program. In addition, non-Federal funds which are being used to match grant funds under another Federal program may not be used to match the grant funds of the State Water

Management Planning Program unless specifically allowed by law.

(3) Any costs charged as program costs of the State Water Management Planning Program are eligible as long as they are used for the purposes as specified in the Act and in these guidelines. The program costs, however, must be clearly allocable to such activities through such accounting practices that can identify the purposes and amounts of such expenditures.

Section 740.7(f) identifies certain costs which are not allowable under the State Water Management Planning Program. As described in Attachment B, Federal Management Circular 74–4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments," which will be used in the State Water Management Planning Program for determining the allowability of costs, there are specific costs which are not allowed in any grant program of this type. Such costs not allowed include bad debts, contingencies, expenses, interest and other financial costs, legislative expenses and underrecovery of costs under grant agreements.

Contributions to organizations for the purpose of dues or assessments, or for matching Federal funds of another grant program are not allowed under the provisions of the State Water Management Planning Program. However, additional payments made to organizations such as interstate or interagency councils, commissions or committees may be eligible if the funds are used to support specific water management planning activities as defined in Section 740.2 of the guidelines and which are of direct benefit to the State.

Basic research projects or scientific investigations which are generally part of existing or proposed long-term research activities are not allowable costs under this program. Before applied research activities are allowed under the program, they must be specifically related to identified problems needing priority consideration in the description of the water management planning programs submitted to the Council. The specific applied research activities must be submitted in the proposed work plan and approved by the Council.

Costs of construction projects, to include facility siting and design, payment of subsidies, purchases of land or easements, and actual construction of facilities, are not allowable costs of this program. However, those activities which lead to a decision to build such facilities are allowable costs, such as data collection, planning and cost/benefit analyses.

If any one item of equipment costs in excess of $1,500, the purchase must be approved in advance by the Council. The request may be submitted in the annual application, or as a budget amendment for purchase of equipment unanticipated at the time the application is submitted.

If the total cost of equipment with a unit cost of less than $1,500 exceeds one percent of the grant award, then the Council must approve the purchase of this equipment in advance. This may be accomplished at the time the annual application is submitted to the Council for approval. An itemized list of such equipment may be submitted for approval at that time or at a later date through the submission of an amended budget.

The purpose of § 740.7(g) is to prevent the replacement of State funds with Federal funds. State expenditures should remain at the same relative level of the Federal funds being used to augment or supplement the State programs. It is recognized, however, that under some circumstances, budget reductions do occur on occasion, but it would be anticipated that this may be for some program or activity which no longer serves a useful or essential function. This does not prevent reducing the emphasis or phasing out non-essential functions. However, it would not be acceptable under this provision for the program efforts to remain the same while total State expenditures would decline, simply to be replaced by Federal dollars.

Attachment J of OMB Circular A–102 establishes required methods of making payments to grantees. In accordance with this attachment, grant payments in the State Water Management Planning Program will be made through a letter of credit. Letters of credit are issued by the grantor agency and authorize the grantee to draw funds needed for immediate disbursement in accordance with the provisions of Treasury Circular 1075. Treasury Circular 1075, "Regulations Governing Withdrawal of Cash from the Treasury for Advances Under Federal Grants and Other Programs," sets forth the procedures which the Council and the grantees will follow in utilizing the letter of credit system.

Attachment G of OMB Circular A–102 prescribes standards for financial management systems of grant-supported activities of State and local governments. Federal grantor agencies may not impose additional standards unless specifically provided for in other attachments to the Circular. However, grantor agencies are expected to make suggestions and assist the grantees in establishing or improving financial management systems when such assistance is needed or requested. Paragraph 3 of Attachment G specifies that primary grantees shall require subgrantees to adopt the same standards for financial management set forth in the attachment except for the financial reporting requirements in subparagraph 2(a) of Attachment G and in Attachment H of OMB Circular A–102.

Section 740.8 sets forth the procedures for reporting on the status of the program and the financial statements of the program. The State Water Management Planning Program will require four reports each year from each State and will consist of two parts: the program status report and the financial status report. The Council will consider altering this requirement and is very interested in comments on this subject.

The quarterly program status report will be designed to compare actual accomplishments to the major milestones that are developed in the work plan for any one year.

The quarterly financial status report will be submitted in conjunction with the quarterly program status report and will be in accordance with Attachment H of OMB Circular A–102. Attachment H of OMB Circular A–102 requires a Report of Federal Cash Transactions when funds are advanced through Letters of Credit.

Paragraph 6 of Attachment I to OMB Circular A–102 requires that if a performance review by the grantor agency discloses the need for a change in the budget estimates in accordance with Attachment K, the grantee shall submit a request for a budget revision. Attachment K sets forth the criteria and procedures to be followed by the grantor agency in requiring grantees to report deviations from grant budgets and to request approvals for budget revisions.

The annual report will include the program status report for the fourth quarter plus additional information summarizing the accomplishments for the year in relation to the major milestones projected for that year in the work plan. The annual report will also include a summary of the major activities in relation to the major milestones projected in the work plan for that year.

Documents published with Federal funds must duly note the source of those funds. This section requires a list of those documents which are published with Federal funds under the State Water Management Planning Program.

For each unit of local government, as defined in § 740.2 of the guidelines, that has been provided funds for the

purposes of this program, the grantee should provide the amount of Federal funds that has been made available for the purpose of this program.

A Financial Status Report must be prepared and submitted with the annual report each year in accordance with the procedures set forth in Attachment H of OMB Circular A–102.

Section 740.9 sets the requirements for recordkeeping. Records established in accordance with Attachment G of OMB Circular A–102, which prescribes standards for financial management systems for grant-supported activities of State governments, must be retained in accordance with Attachment C of the Circular. Financial records, supporting documents, statistical records and all other records pertinent to a grant shall be retained for a period of three years. The retention period starts from the date of the submission of the annual financial status report.

In accordance with § 740.10, the Council will review each State's program primarily through the applications, the quarterly and annual reports, and on-site visits. Criteria will be established by the Council for the review, and the review procedures will be available to the States as well as all requirements of the program. Other information relative to State water management planning programs which may become available will also be considered in the review of a State's program.

Paragraph 7 of Attachment I in OMB Circular A–102 requires grantor agencies to make site visits as frequently as practicable to review program accomplishments and management control systems, and to provide such program assistance as may be required. The Council will make such visits, to the extent that funds and personnel are available.

The Council will provide detailed instructions on the preparation of each report, which will be in accordance with OMB Circular A–102. Attachment H of OMB Circular A–102 prescribes uniform reporting procedures for grantees to summarize expenditures made and Federal funds unexpended for each award, and promulgates the standard for reporting. Attachment I of the Circular sets forth the procedures for monitoring and reporting program performance under the State Water Management Planning Program.

The purpose of § 740.11 is to strongly encourage consideration of State water management programs in establishing and implementing Federal programs in States or interstate regions and to closely coordinate those Federal programs with the State agency designated by the Governor to administer the State water management planning program. The Council also will coordinate the Program with related programs of other Federal agencies, particularly those programs administered by the Member agencies.

It may become necessary from time to time to amend all or part of the implementing guidelines for the State Water Management Planning Program. In accordance with § 740.12, if it appears that an amendment is necessary, the Council first will notify and consult with appropriate advisory bodies. The Council then will publish the proposed changes in the **Federal Register**, notify each State of the action, and provide copies of the proposed changes. Based on comments received, the Council will amend the proposed guidelines, if appropriate, and publish the final guidelines in the **Federal Register.**

In addition to the necessity for changes in the guidelines, it may become necessary from time to time to amend instructions or procedures relative to the administration of the State Water Management Planning Program which fall outside the implementing guidelines. In some cases, clarification of existing instructions or a more definitive explanation of existing procedures may be necessary. Section 740.13 specifies that the Council may issue supplemental instructions for such purposes. The Council also may issue policy bulletins which are designed to clarify program or administrative procedures set forth in these guidelines.

III. Opportunity for Public Comments

A. *Written Comments*

Interested persons are invited to submit written comments with respect to the proposed guidelines to: Denzel L. Fisher, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037. Comments should be identified on the outside of the envelope and on the documents submitted to WRC with the designation "SWMP Comments." All comments and related information should be received by September 5, 1980, in order to ensure consideration.

B. *Public Hearings*

1. *Participation procedures.* The time and place of the public hearings are indicated in the dates and addresses section of this preamble.

The Council invites any person who has an interest in the proposed guidelines, or who is a representative of a group or class of persons that has an interest in the proposed guidelines, to make a written or oral request for an opportunity to make an oral presentation. Such a request should be directed to: Denzel L. Fisher, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037, (202) 254–6446, and must be received before 4:30 P.M. on:

August 18, 1980, for San Francisco, CA
August 21, 1980, for Kansas City, MO
August 25, 1980, for Washington, D.C.

Such a request also may be hand delivered to Mr. Fisher between the hours of 8:30 A.M. and 4:30 P.M., Monday through Friday. A request should be labeled both on the document and on the element "SWMP Comments."

The person making the request should provide a phone number where he or she may be reached. Each person will be notified by the Council of the amount of time available for the presentation at least two days prior to the scheduled hearings.

2. *Conduct of Hearings.* The Council reserves the right to arrange the schedule of presentations to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A Council official will be designated as presiding officer to chair the hearing. This will not be an adjudiciary or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting the statements.

Any participant who wishes to ask a question at the hearing may submit the questions, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the Council and made available for inspection at the Council's State Programs Division Office, Room 880, 2120 L Street, NW., Washington, DC 20037, between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday.

In accordance with the Council's obligations under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the Council has determined that these guidelines will not constitute a major Federal action having a significant effect on the quality of the human environment, and that an environmental impact statement or assessment is not required. However, in the development and implementation of water resources

management programs, States are encouraged to give appropriate consideration to the environmental effects of their proposed actions and to incorporate suitable environmental considerations, to the extent permitted by State law.

In accordance with Executive Order 12044, entitled "Improving Govenment Regulations," the Director has determined that these proposed guidelines for the State Water Management Planning Program are significant since it is expected to affect State programs substantially. The Director has further determined that a regulatory analysis is not required for the proposed regulation. The program is not likely to impose gross economic costs of $100 million or more a year; nor is it likely to cause a major increase in costs or prices for individual industries, levels of government, geographic regions or demographic groups. Services under the program will be supportive of the overall objectives of the State Water Management Planning Program as they relate to water resources management planning.

In consideration of the foregoing, it is proposed to amend Chapter VI of Title 18 of the Code of Federal Regulations by amending Part 703 as set forth below.

Issued in Washington, DC., July 21, 1980.

Gerald D. Seinwill,

Acting Director, U.S. Water Resources Council.

Chapter VI of Title 18, Code of Federal Regulations is amended by deleting all of Part 703 and inserting in lieu thereof a new Part 740 as follows:

PART 740—STATE WATER MANAGEMENT PLANNING PROGRAM

Sec.

740.1 Purpose and scope.
740.2 Definitions.
740.3 State applications.
740.4 State water management planning program.
740.5 Review and approval of State applications and programs.
740.6 Financial assistance.
740.7 Administration of financial assistance.
740.8 Reporting.
740.9 Recordkeeping.
740.10 Program review and assistance.
740.11 Federal/State coordination.
740.12 Amendments.
740.13 Supplemental instructions.

Authority: Water Resources Planning Act of 1965 (as amended), Pub. L. 89–80, 79 Stat. 244, 42 U.S.C. 1962d–1; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, 92 Stat. 3, 41 U.S.C. 501 *et seq.*; E. O. 12044, 43 FR 12660.

§ 740.1 Purpose and scope.

(a) In recognition of the role of the States as the focal point for the management of water and related land resources, this part establishes guidelines for financial and program assistance to States for water management planning programs which address each State's particular needs, which are based on established State goals and objectives, and which take into consideration national goals and objectives.

(b) The purpose of the State Water Management Planning Program (Program) is to provide financial and program assistance to participating States to support the development and modification of comprehensive water management planning programs.

(c) Funds made available under this part shall be used to establish, develop or enhance existing or proposed State water resources management and planning programs that are designed to address pertinent State and national goals and objectives, as well as the goals and objectives of Title III of the Water Resources Planning Act (Act), Pub. L. 89–80, as amended, by addressing in the Program the following—

(1) Coordination of the program authorized by the Act and those related programs of other Federal agencies;

(2) Intergration of water conservation with State water management planning;

(3) Intergration of water quantity and water quality planning;

(4) Intergration of ground and surface water planning;

(5) Planning for protection and management of groundwater supplies;

(6) Planning for protection and management of instream values; and

(7) Enhanced cooperation and coordination between Federal, regional State and local governmental entities involved in water an related land resources planning and management.

§ 740.2 Definitions.

"Act" means the Water Resources Planning Act (as amended), Pub. L. 89–80, 42 U.S.C. 1962 *et seq.*

"Activities" means a series of actions and operations which address the water management problems of the State and have a specific purpose or objective. Activities are further characterized by tasks and milestones.

"Affected interests" means public and private organizations, local, tribal, State and Federal governments that may be potentially affected by the State water management planning program.

"Application" means a document submitted by a Governor or designee for consideration by the Council for a grant.

"Council" means the Water Resources Council established by Section 101 of the Act.

"Designated agency" means an entity of a State designated by the Governor to act as the grant recipient and to act as liaison with the Council for this Program.

"Fiscal year" means a 12-month period ending on September 30, unless otherwise specified.

"Governor" means the chief executive officer of a State, including the Mayor of the District of Columbia.

"Grant agreement" means a document executed by the authorized official of the Water Resources Council and by the authorized representative of the State agency designated as the grant recipient containing the agreed terms and conditions of the approved grant offer and award.

"Grant period" means a 12-month period specified in the grant agreement during which program funds are authorized to be expended, obligated, or firmly committed by the grantee for the purposes specified in the Act, in the grant agreement and in these guidelines.

"Land area of a State" means the land and inland water area of a State as defined and set forth in the publication "Boundaries of the United States and the Several States" Geological Survey Professional Paper 909, U.S. Government Printing Office, Washington, DC, issued in 1976, or revisions thereof.

"Local government" means a local unit of government including a county municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments, sponsor group representative organization (as defined in 7 CFR 620.2, 40 FR 12472, March 19, 1975) and other regional or interstate government entity; or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

"Milestone" means key events in the activity implementation schedule. Milestones indicate important dates for design implementation and monitoring tasks. Examples of milestones include but are not limited to hiring of key staff, publication dates, workshop dates, or the completion of specific phases of the implementation schedule.

"Obligation" means orders placed, contracts awarded, grants issued, services received and similar transactions during a given period that require the disbursement of money.

"Per capita income of a State" means the most recent year of official U.S. Department of Commerce per capita income figures for the State.

"Program period" means the period beginning on October 1, 1980, and extending through the authorized life of the Program.

"Program funds" means grant funds provided under the Act, non-Federal funds and the value of in-kind contributions used for matching purposes.

"Population of a State" means the latest official resident population estimate by the U.S. Department of Commerce available on or before January 1st of the year preceding the fiscal year for which funds under this part are appropriated.

"Related land resources" means any land affected by present or projected management practices causing significant effects on the quantity or quality of the water resource.

"State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or the Commonwealth of the Northern Mariana Islands.

"State water management planning" means those activities necessary to effect coordinated decisions for the use of water and related resources within a State or interstate region; which provide for the correction or prevention, respectively, of present and future water and related land resources problems; which consider the potential for water and related land resources use from the standpoint of present and future needs; and which provide for involvement of affected interests. Water management planning activities may include, but are not limited to, planning, data collection and analysis, studies and investigations, program design and coordination, development of regulation and enforcement programs, information dissemination, public meetings, and the coordination of the program with other related programs.

"Tasks" means a specific action or operation which comprises a part of the implementation effort for an activity.

"Water conservation" means activities designed to (1) reduce the demand for water, (2) improve efficiency in use and reduce losses and waste of water, or (3) improve land management practices to conserve water.

"Water management planning need" is defined as the basis for establishing criteria for assessing each State's need for assistance under the Program.

"Work Plan" means a document listing the major program elements to be performed under the program during each grant period which presents, in chronological order, the major tasks and events in the program element; which targets milestones or proposed accomplishments by activity, cost and date; and which will be used in preparing reports to reflect accomplishment of goals and objectives under the participating State's comprehensive program.

§ 740.3 State applications.

(a) The Council shall invite the Governor of each State to submit a State application.

(b) To be eligible for financial assistance under this part, a State shall submit to the Council an original and two copies of a State application executed by the Governor or designee. The State application shall be submitted not later than 90 days from the date of the Council's invitation.

(c) The program application package shall consist of—

(1) The forms and instructions for completing the application;

(2) The criteria to be used by the Council in assessing need for water management planning funds;

(3) Information on the applicable Federal requirements for administering the program; and

(4) Other information pertinent to the application.

(d) A State application shall contain—

(1) The name and address of the designated State agency;

(2) A description of the comprehensive State water management planning program, or modifications thereto, as required by § 740.4(a);

(3) A work plan of the major program elements of the State water management planning program in three month intervals;

(4) A budget and corresponding narrative in accordance with the forms and instructions provided by the Council;

(5) A notice of concurrence by the State clearinghouse in accordance with the Office of Management and Budget (OMB) Circular A–95;

(6) The manner in which the general public is involved in the development and modification of the State program; and

(7) A prioritization of program elements which would be carried out if additional funds were made available during the grant period under the provisions of § 740.6(e).

(e) The Governor or designee may request an extension to the submission date by submitting a written request to the Council not less than 30 days prior to the date referred to in paragraph (b) of this section. The extension shall be granted only if, in the Council's judgment, acceptable and substantial justification is shown and the extension would further the objectives of the Act. An extension shall not be granted for more than 30 days.

§ 740.4 State water management planning program.

(a) A State shall submit a description of its proposed State program with the State application, which shall—

(1) Describe the comprehensive water and related land resources management planning program for the State;

(2) Describe water and related land resources problems, needs and opportunities, and the priorities proposed for their resolution;

(3) Specify the goals and objectives which reflect the water resouces policy of the State and which address the major problems which are of concern to the State;

(4) Describe the major elements of the State water management program, which should address but not be limited to—(i) The integration of water quantity and water quality planning and management;

(ii) The protection and management of instream values;

(iii) The protection and management of groundwater supplies; and

(iv) The integration of ground and surface water planning and management;

(5) Describe the major components of the water conservation element of the State water management planning program;

(6) Identify Federal, State, or local government, or public or private organizations that will participate and a general description of how they are involved in the management planning process;

(7) If provisions for pass-through of funds are made, describe the *process* by which recipients will be selected, and the purpose of the pass-through; and

(8) List existing or proposed administrative, legal and/or institutional arrangements to be used in coordinating intrastate, interstate and regional water resources planning activities involving State, local and/or the Federal Government with the proposed water management planning program of the State to assure that all such activities are compatible.

§ 740.5 Review and approval of State applications and programs.

(a) The Council shall review and approve each State application for financial assistance if it is determined that—(1) The State water management planning program meets the objectives of the Act;

(2) The State application and the State water management planning program meet the requirements of this part; and

(3) Progress on the previous grant period's work plan is satisfactory, based

on the requirements set forth by the Council.

(b) Based on the review of the application, the Council shall determine the amount of funds to be made available pursuant to § 740.6 and shall notify the designated agency in each participating State of the grant award as soon as possible after funds are apportioned for Council use.

(c) If an application is not approved by the Council, it shall be returned by registered mail with a full explanation of the reasons for that determination. The State shall then be allowed the opportunity to submit a revised application within 30 days after receipt by the State of such notification. Should the State determine that further review is required by the State clearinghouse under OMB Circular A–95, an additional 30 days will be allowed.

(d) If the grant amount requested by a State differs from the grant amount offered by the Council, the Council will request the designated State agency to submit a revised budget and work plan with the acceptance of the grant offer.

(e) The State, upon acceptance of the terms and conditions of the notice of grant award, as presented by the Council, will be granted financial assistance in the amount of the approved final budget.

(f) The work plan for the State water management planning program may be revised at any time by submitting revisions to the work plan and budget to the Council for approval in connection with any proposed significant change (an additional or deletion of tasks specified in the approved work plan) with appropriate provisions for A–95 State clearinghouse review. The Council will review the proposed revision and notify the State of its decision not later than 30 days from the date of receipt of the request.

§ 740.6 Financial assistance.

(a) The Council shall provide financial assistance from funds available for each fiscal year to each State having an approved application pursuant to § 740.5.

(b) Within the provisions prescribed by paragraphs (c) and (d) of this section, the Council may grant up to 50 percent of the cost for a State program.

(c) The funds appropriated pursuant to the Act for the fiscal year shall be allocated among the participating States as follows, except that under paragraphs (d)(2) through (d)(4) no State shall be granted a greater or lesser sum of funds which shall be based upon a procedure in which each of the factors of population, land area, and the reciprocal of per capita income, are adjusted such that—

(1) Those States having observations two standard deviations below the mean of each respective factor are equated to the mean-minus-two standard-deviations, and

(2) Those States having observations two standard deviations above the mean of each respective factor are equated to the mean-plus-two-deviations.

(d) Financial assistance for the Program shall be allocated among the participating States from funds available for any fiscal year based on the following formula—(1) An equal share not to exceed $100,000;

(2) One-third of the remaining balance of the funds in the ratio that the population of each State bears to the population of all States;

(3) One-third of the remaining balance of the funds in the ratio that the land area of each State bears to the land area of all the States;

(4) One-third of the remaining balance of funds in the ratio that the reciprocal of all per capita income of a State bears to the sum of the reciprocals for all States; and

(5) The remainder of the funds according to the need for water management planning in each State as expressed by the State and assessed by the Council. In assessing need for water management, the Council shall utilize established criteria, the proposed porgram, and information made available during program review.

(e) Redistribution of grant funds may occur—(1) If a State fails to apply for a grant within the period specified in § 740.3, or is unable to match the total allocation reserved under § 740.6(d) for that State, that portion of the reserved allocation will be withdrawn by the Council;

(2) If a State fails to obligate Federal funds within the grant period of the approved or amended grant agreement as prescribed in § 740.7(b), such funds shall be returned to the Council not later than 30 days after submission of the Financial Statement for the grant period unless the Council, based on written request, grants an exception or extension to this time limitation;

(3) Funds available under paragraph (1) above shall be available for redistribution to those States requesting additional funds pursuant to § 740.3(d)(7). These funds shall be distributed on the basis of proposals in the application, and the relationship of the State's original allocation to the original allocation of other States requesting redistribution funds; and

(4) Funds available under paragraph (2) above shall be added to funds available for distribution for the next fiscal year, if the appropriation legislation for the current year allows such action.

§ 740.7 Administration of financial assistance.

(a) Grants under this part shall comply with the requirements of—(1) Office of Management and Budget (OMB) Circular A–102, Revised, (34 CFR Part 256), entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"

(2) Federal Management Circular (FMC) 74–4 (34 CFR Part 255), entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(3) OMB Circular A–73 (34 CFR Part 251), entitled "Audit of Federal Operations and Programs;"

(4) OMB Circular A–95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects;"

(5) Treasury Circular (TC) 1075, entitled "Regulations Governing Withdrawals of Cash from the Treasury for Advances under Federal Grants and other Programs;"

(6) TC 1082, entitled, "Notification to States of Grants-in-Aid Information;" and

(7) Other procedures which the Council may from time to time prescribe for the administration of financial assistance.

(b) Program funds must be obligated within the grant period unless the Council, based on written request, grants an exception or extension to this time limitation. The repeated occurrence of unobligated program funds at the end of the grant period will be considered in determining the need for assistance in subsequent years pursuant to § 740.6(d)(5).

(c) The procurement standards, practices, rules and policies of the State as customarily applied, if in accordance with Attachment O of OMB Circular A–102, shall govern for procurement costs incurred in an approved program.

(d) For all matching funds—(1) The sources of a State's cost share shall have no bearing on whether or not such costs can be matched by Federal funds except that other Federal funds or property cannot be used for matching purposes unless specifically permitted by Federal laws or regulations; and

(2) Program funds shall not be used to match Federal funds under any other federally aided program, nor shall non-Federal funds used to match other

federally aided programs be used to match funds provided under the Act.

(e) Any cost incurred for water management planning may be employed for matching a grant awarded under the Act except as specified in this section. Such expenditures must be reasonable, documentable, and directly applicable to the approved program.

(f) Program funds may not be used for—(1) Items whose costs are not allowable under the provision of FMC 74–4;

(2) Contributions, dues or assessments to support headquarter offices of interstate commissions, councils, interagency committees, or other similar organizations;

(3) Scholarly or scientific investigations for purposes other than addressing water management problems, needs, concerns or interests specifically identified and explained in the approved program as a priority consideration;

(4) Construction, payment of subsidies, or purchase of land or easements;

(5) Purchase of equipment with a unit cost of $1,500 or more without prior approval of the Council; and

(6) Purchase of equipment with a unit cost of less than $1,500 when the cumulative cost of such equipment in any one grant period exceeds 1 percent of the grant award, without prior approval of the Council.

(g) Federal funds may not be used to substitute for State and local funds that would have been made available for water management planning programs in the absence of the grant funds provided under this part. Federal funds may be used to supplement and complement existing water management planning programs. It does not prevent drawing matching shares from individual programs or from existing agency appropriations, budgets, or resources so long as expenditures are not substituted by Federal funds for the purposes of the Act.

(h) Payments shall be made in accordance with Attachment J of OMB Circular A–102 and with TC 1075. Grant funds shall be requested only on an as needed basis.

(i) Financial management procedures shall comply with Attachment G of OMB Circular A–102 and TC 1075. The applicable Federal requirements shall apply to the State and to local governments or non-governmental entities that receive funds as a sub-grantee for the purposes of the Act.

§ 740.8 Reporting.

(a) The designated agency shall submit program status reports and financial statements in accordance with procedures established by the Council and consistent with the program period. Instructions and a description of the content of these reports and the appropriate forms will be provided by the Council and will be in accordance with Attachments H, I and K of OMB Circular A–102.

(b) The program report for the first quarter shall contain—(1) Information specified by the Council on problems arising from the initiation of the grant;

(2) A description of proposed amendments or revisions to the work plan;

(3) Other pertinent information, including any specific need for Council assistance; and

(4) An interim financial status report and a Report of Federal Cash Transactions.

(c) The program report for the second quarter shall contain—(1) Updated milestone charts for each activity in the work plans;

(2) A narrative description that identifies accomplishments, delays, and other information on the progress of each activity in the work plan. States should specify actions taken or planned to resolve problems in implementation; and

(3) An interim financial status report and a Report of Federal Cash Transactions.

(d) The program report for the third quarter shall contain—(1) An interim assessment on the implementation of the State's evaluation program;

(2) A description of proposed amendments or revisions to the work plan;

(3) Other pertinent information including specific need for Council assistance; and

(4) An interim financial status report and a Report of Federal Cash Transactions.

(e) The program report for the fourth quarter shall serve as the annual report and shall contain—(1) A summary description of the major accomplishments and results of the water management planning activities for the year, and an explanation of any work proposed in the work plan that has not been completed;

(2) Updated milestone charts showing the completion dates of tasks and milestones;

(3) A summary of the results of the evaluation efforts conducted by the States on both the overall program effectiveness and key water management activities;

(4) A list of publications, public information materials, and other documents prepared in whole or in part with program funds which must duly note the use of Council grant funds in the printing of these documents; and

(5) A final financial status report and a Report of Federal Cash Transactions.

§ 740.9 Recordkeeping.

Each State or other entity within a State receiving financial assistance under this part shall make and retain records required by the Council, including records which fully disclose the amount and disposition of financial assistance received; the cost of administration; the total cost of all activities for which assistance is given or used; and any data and information which the Council determines are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. The Council and the Comptroller General of the United States shall have access to any books, documents, records or receipts which the Council determines are relevant or pertinent, either directly or indirectly, to any financial assistance provided under this part. Such records shall be retained for a period of three years, which starts from the date of the submission of the final financial status report.

§ 740.10 Program review and assistance.

(a) Each State's program will be reviewed annually by the Council to evaluate program management and accomplishments relative to the approved work plan. The Council shall—

(1) Review program information including the application, the quarterly and annual reports, and other relevant information; and

(2) Make on-site visits as frequently as practicable to review the State program to—(i) Provide assistance in the administration of the program, and at the request of the State, specific technical assistance in water resource management;

(ii) Determine whether Council policies, procedures or guidelines need revision to more effectively administer the grant; and

(iii) Gather information on practical or innovative techniques, methodologies, or other relevant information on the program.

(b) Based on the Council's annual review of each State program, the following may occur—(1) If the program conforms to the requirements of the Act, the State will be advised of its continued eligibility for a grant;

(2) If it appears that the program does not comply with the requirements of the Act in either design or administration,

the Council shall ascertain all the relevant facts. The State shall be notified immediately of the apparent inadequacies of the program with citation of specific requirements of the Act, this part, or other relevant instructions which apparently have not been met. The State shall be given timely opportunity to be heard through the filing of written statements and personal presentations in support of their position. If the Council is satisfied that sufficient adjustments have been made in the design and operation of the program, payments to the State will be continued; and

(3) If the Council determines on the basis of all the facts that the program still does not meet the requirements of the Act, the Governor shall be notified of the decision and the reasons therefore, and that no further payments shall be made until the noted inadequacies are satisfactorily resolved.

§ 740.11 Federal/State coordination.

(a) The Council will coordinate the program under this part with similar or related programs of other Federal agencies.

(b) Federal water and related land resources activities shall be compatible with State water management programs.

§ 740.12 Amendments.

(a) The Council may amend all or portions of these guidelines in accordance with established procedures. If it does, it will—(1) Consult with appropriate advisory groups;

(2) Publish such proposed rule-making in the **Federal Register**; and

(3) Simultaneously provide a copy of such proposed changes to each designated agency.

§ 740.13 Supplemental instructions.

As deemed appropriate the Council may amplify the guidelines in this part by means of supplemental instructions, and may clarify program or administrative requirements set forth in these guidelines by the means of policy bulletins.

[FR Doc. 80-21734 Filed 7-18-80; 8:45 am]

BILLING CODE 8410-01-M

federal register

Monday
July 21, 1980

Part IV

Environmental Protection Agency and Customs Service, Department of the Treasury

Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[FRL 1465-4]

Control of Air Pollution From Motor Vehicles and Motor Vehicle Engines; Importation of Motor Vehicles and Motor Vehicle Engines

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rule would revise the EPA regulations governing the importation of motor vehicles and motor vehicle engines under the Clean Air Act, as amended (Act). The current regulations provide a substantial deterrent to the importation of vehicles and engines which do not conform to Federal emission standards, but shortcomings have been identified in several areas. The proposed rule is intended to improve the administrative efficiency and effectiveness of the regulations.

DATE: Written comments must be received no later than September 19, 1980. Requests for a public hearing must be made no later than August 11, 1980.

ADDRESSES: Interested persons are encouraged to participate in this rulemaking procedure by submitting written comments to: Central Docket Section (A-130), Environmental Protection Agency, Washington, D.C. 20460. All comments received before the close of business on September 19, 1980 will be considered.

Copies of materials relevant to this rulemaking proceeding are contained in *Public Docket EN-79-9* at the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery One, 401 M Street, SW., Washington, D.C. 20460 and are available for review during normal business hours (8:00 a.m.-4:00 p.m.). As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Gerard C. Kraus, Acting Chief, Investigation/Imports Section, Manufacturers Operations Division (EN-340), Environmental Protection Agency, Washington, D.C. 20460 (202) 472-9413

SUPPLEMENTARY INFORMATION: The U.S. Customs Service (Customs), in conjunction with EPA, enforces those laws and regulations applicable to the importation of motor vehicles and motor vehicle engines. Thus, certain regulations relating to those importations are found in the Customs regulations (19 CFR 12.73) while other regulations relating to those importations are found at 40 CFR Part 85, Subpart P. Due to changes in the EPA regulations, corresponding changes are required in the Customs regulations. The text of those regulations is found elsewhere in this issue of the **Federal Register**. In order to understand fully the operation and effect of these regulations, both the EPA and the Customs regulations must be read together. For this reason, this supplementary information will serve as a discussion of the changes to both the EPA and the Customs import regulations.

The Clean Air Act Amendments of 1970 (Pub. L. 91-604) revised the importation provisions of the Clean Air Act (42 U.S.C. 1857f-2) (current version at 42 U.S.C. 7522) to prohibit the importation of any motor vehicle or engine unless it is covered by a certificate of conformity with Federal emission standards applicable during the model year in which it was built, or unless it is excluded from the Act or exempted by the Administrator of EPA. Joint Customs and EPA regulations implementing the 1970 amendments were published in the **Federal Register** at Volume 37, No. 21 on Tuesday, February 1, 1972. At that time, the Preamble to the EPA regulations stated that the Agency would be studying the "operation of the regulations on importation of motor vehicles and motor vehicle engines with a view to improving the effectiveness of the regulations in preventing the importation of vehicles and engines which do not conform to Federal emission standards."

Experience gained since the above regulations were published indicates that several regulatory amendments are needed in order to improve the administrative efficiency of the program and to improve its effectiveness. As a result, Customs and the EPA are proposing to amend the joint regulations governing the importation of motor vehicles and motor vehicle engines.

Modification and Testing

The present regulations allow uncertified motor vehicles to be imported into the United States under the condition that the importer post a bond for the full value of the vehicle with Customs and bring the vehicle into conformity with Federal emission requirements within 90 days of entry. Either of two methods may be used to bring a vehicle into conformity with such requirements: modification or testing.

(A) Modification

An importer may bring a vehicle into conformity with emission requirements through mechanical modifications of the vehicle to make it identical in construction to a vehicle covered by a certificate of conformity. This option has the potential to mislead importers into believing that modification is an easy option requiring only a few minor adjustments to their foreign version vehicles to make them identical to U.S. certified models.

As Federal emission standards become stricter, it becomes more difficult and highly impractical to attempt to convert an uncontrolled vehicle to be identical to a controlled vehicle. For example, for many later model year vehicles modification requires total engine replacement in order to bring the cars into conformity. Mofication is nearly always expensive. Many times, the expenditures necessary to sufficiently modify the vehicle exceed the value of the vehicle at the time of importation. In addition, because manufacturers cannot be required to inform EPA or the individual importer of the modifications necessary to bring a particular vehicle into conformity, importers often cannot obtain the information necessary to bring their vehicles into compliance. without such information, importers are required to test the vehicles as described below. Otherwise, they are subject to the loss of their bond and the assessment of civil penalties under the Act.

Foreign salesmen sometimes take advantage of the availability of this option when selling the foreign models to U.S. citizens, since they have no incentive to inform the purchasers of the expense involved in attempting to import their vehicles into the U.S. As long as the vehicle is able to be imported in some way, U.S. citizens will continue to be deceived as to the hardships involved. Even if complete modification instructions are compiled and the importer is willing to have the work done, EPA cannot frequently confirm that vehicle modified by a dealer or repair shop has been brought into conformity with emission requirements. Differing qualities of workmanship and components affect the emission and durability characteristics of the modified vehicle, and there is no practical way for EPA to monitor dealer workmanship.

(B) Testing

The testing option permits the importation of an uncertified vehicle if the importer can demonstrate the vehicle's conformity with applicable

emissions standards by passing it through the full Federal Test Procedure (FTP). There are a very limited number of laboratories in the United States capable of administering the full FTP and the importer must incur the expense of shipping the vehicle to a qualified laboratory.

Passing the FTP itself is an expensive endeavor since an unmodified vehicle cannot often pass without expert assistnace in devising proper emission modifications. If the vehicle does not pass the test, the importer's investment is wasted. In addition, a review of test results and documentation submitted to EPA by these laboratories shows that many do not perform the FTP consistently according to the applicable regulations.

Another problem is created by the availability of this option to importers other than individuals importing vehicles for their own use. Many importers for resale are importing nonconforming vehicles with the object of performing their own modifications, testing the vehicles, and selling them. Because this option imposes less rigorous testing requirements than does EPA's certification program for auto manufacturers, this practice undermines the certification requirement of the Clean Air Act, and arouses protest from the factory licensed distributors for manufacturers participating in the certification program.

(C) Elimination of Modification and Testing Option

If an importer cannot demonstrate conformity, he/she must redeliver the vehicle to Customs, export it or destroy it. Alternatively, Customs may assess liquidated damages against the bond which the importer posted upon importation. In either case, an importer may lose the total investment in the foreign vehicle, as well as any additional expense incurred in attempting to bring the vehicle into conformity.

The burden imposed upon EPA and Customs in administering both the modification and testing options is substantial. Each conditional importation must be followed to final disposition, i.e., demonstration of conformity, assessment of liquidated damages, exportation or destruction. However, the air quality benefit obtained form administering this program is minimal because there are only approximately 1400 nonconforming vehicles involved annually.

For these reasons, the proposed regulations would eliminate the provisions which allow conditional importation of a vehicle pending modification to make the vehicle identical to one covered by a certificate of conformity, or testing to demonstrat that the vehicle conforms with Federal emissions standards. That is, a motor vehicle or motor vehicle engine would be refused admission unless the vehicle or engine is covered by a certificate of conformity as orignially manufactured, or is excluded or exempted from the Act's coverage as discussed below. Since promulgation of the regulations allowing conditional importation under section 203(b)(2) of the Act was within the Administrator's discretion, elimination of these options is likewise within the Administrator's discretion.

Elimination of the modification and testing optios, however, arouses concern over the potential hardship which may be imposed upon individuals who import personal use vehicles for the first time. Without these options, an individual attempting to import a motor vehicle not covered by a certificate of conformity would have to export or destroy the vehicle. Therefore, EPA is proposing to promulgate a regulation providing for a qualified exemption to accommodate these cases. Such an exemption is authorized by section 203(a)(1) of the Act.

(D) The Proposed Regulation

The proposed regulation would exempt from the Act's coverage those individuals who import nonconforming motor vehicles or engines for their own personal use and not for resale. The exemption would only apply to an individual who has not imported or attempted to import a nonconforming vehicle since the effective date of the Clean Air Act Amendments of 1970 (December 31, 1970). Therefore, an individual could utilize this exemption only one time at most to import one vehicle or engine not covered by a certificate of conformity. Commercial importers would not qualify for the exemption nor could they import a vehicle for an individual who may have qualified for the exemption. In addition, those who act as agents in the purchase, sale and/or importation of more than one nonconforming vehicle will not be eligible for the exemption. Of course, this does not affect the authority inherent in licensed Customs brokers to act as agents or consignees of an otherwise eligible importer.

Alleviation of the potential hardship imposed upon first-time individual importers of uncertified motor vehicles and more efficient use of limited agency resources would be accomplished by allowing importation under a qualified exemption. Therefore, the Administrator has determined that application of scarce agency resources to regulation of commercial importations by manufacturers and importers for resale rather than first-time importations by individuals would more effectively accomplish the purposes of the Act.

Exclusions and Exemptions

The second area in which the current imports regulations have proved deficient is in not providing sufficient control over vehicles in certain excluded and exempted categories after their importation. This has come about, partially, because sufficient restrictions relating to public road usage have not been imposed. For the sake of clarity, each of the excluded or exempted categories will be discussed separately by comparing the current regulations with the proposals. It should be noted that the qualaified personal use exemption discussed above would obviate the need for some of the more limited exemptions described below.

(A) Racing Vehicles

Racing vehicles are excluded from coverage by the Act and the imports regulations because they are not "motor vehicles" as defined by section 216(2) of the Act. Currently, this exclusion is chosen by an importer by simply declaring at the time of importation that the vehicle or engine is being imported for racing purposes. However, this selection cannot be made based merely upon the importer's intention to use the vehicle for racing purposes. Following 40 CFR 85.1703, the standards applied for determing whether a vehicle can be excluded is whether the vehicle is capable of safe, practical use on public roads and highways, or whether it is likely to be so used. If the vehicle, at the time of importation, is capable of, or easily modified for, use on public roads and highways, or is likely to be so used, it does not qualify as a racing vehicle, regardless of the importer's intention. This is because vehicles with both on-road and off-road capabilities are typically operated on the roads.

The Administrator will make vehicle-by-vehicle determinations based upon the objective capability criteria. One important factor that will be considered in determining vehicle status is whether the vehicle may be licensed for operation on public roads and highways in the owner's state of residence, in which case the vehicle will be considered a "motor vehicle" subject to the Act. However, even if a vehicle is not licensable for operation on public streets, it may nevertheless be a motor vehicle, and not a racing vehicle under the Act. The mere fact that a vehicle is not licensable will not lead to a presumption by EPA that the vehicle is a

racing vehicle. Only if a vehicle meets the objective capability criteria specified at 40 CFR 85.1703 will it be considered a racing vehicle. Under unusual circumstances, it may be possible that a vehicle which may be licensed exhibits characteristics or has been sufficiently modified to bring it within the exclusion criteria. The burden of establishing that the vehicle may be imported as a racing vehicle is upon the importer, and borderline cases will be resolved in favor of categorizing the vehicle as a "motor vehicle."

The proposed regulations will continue to impose the objective criteria specified in 40 CFR 85.1703 for categorizing vehicles as racing or motor vehicles, and will continue to prohibit their use on public roads and highways. The proposed regulations also prohibit the registration or licensing of a vehicle for road use if it is declared under the racing vehicle category.

(B) Display Vehicles

The Administrator may exempt certain categories of vehicles from the Act's importation requirements under section 203(b)(1) of the Act. One currently exempted category is for vehicles that are to be used solely for display purposes. The importer simply declares at the time of importation that the vehicle is being imported solely for purposes of display. However, sale or operation on public roads and highways of a display vehicle is prohibited. The proposed amendments also prohibit registration and licensing for road use.

(C) Test Vehicles

Under the current regulations, manufacturers (which includes importers for resale) and individuals may request that the Administrator grant an exemption for vehicles to be used solely for testing purposes. The proposed amendments continue the availability of the testing exemption to manufacturers and individuals. However, the amendments impose the requirements of 40 CFR 85.1705, 85.1708 and 85.1709 on all motor vehicle or motor vehicle engine importations for test purposes by individuals, as well as manufacturers.

Operation on, or registration for use on, public roads is prohibited unless such use is an integral part of the test and prior written approval has been granted by EPA. If such use is integrally related to the test and an exemption has been granted, the test vehicle may be operated on, or registered for use on, public roads for a period not exceeding one year from the date of importation. The amendments eliminate this prohibition if an applicable certificate of conformity has been received.

(D) Export and National Security Exemptions

Revisions are also being proposed for national security and export exemptions. A national security exemption would be added to the imports regulations in order to achieve consistency with the regulations governing Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines found at 40 CFR Part 85, Subpart R. Both the national security exemption and the export exemption would be governed by the applicable exemption regulations found at 40 CFR Part 85, Subpart R and availability of these exemptions would be limited to manufacturers. EPA anticipates that the proposed changes in these areas would clarify existing policy and would affect very few importers.

(E) Exemption for Repairs or Alterations

The current regulations do not allow residents or nonresidents to import vehicles or engines for the purpose of repairs or alterations. This is being changed in the proposed regulations to allow both nonresident and resident owners of fleet vehicles (such as corporate owners of taxicabs or buses) to import those vehicles or engines for repairs. The importation will be limited to the purpose of repairs or alterations. Vehicles imported for either purpose may not be registered or licensed in the United States for use on public roads. Such vehicles may not be sold, and must be exported upon completion of the repairs or alterations.

(F) Diplomatic and Foreign Military Exemptions

The proposed regulations will continue the exemption currently available to diplomatic personnel and foreign military personnel. Nonconforming vehicles may not be sold in the United States.

(G) Nonresidents

The proposed regulations also continue the exemption available to nonresidents of the United States. Such individuals may import a nonconforming vehicle for personal use for not more than one year, and the vehicle may not be sold in the United States.

(H) Exemptions Based on Extreme Hardship or Extraordinary Circumstances

The current regulations prohibit the importation of a motor vehicle or motor vehicle engine unless permitted by the joint Customs-EPA regulations. In order to accommodate unforeseen cases of extreme hardship or extraordinary circumstances, the proposed regulations provide for exemptions from the importation prohibition. An example of such a case would be a handicapped person's desire to import a nonconforming motor vehicle equipped with special operator controls, when the vehicle is essential to the individual's ability to transport himself/herself and when no vehicle containing similar features is available in a certified configuration. However, specific approval for importation in these cases must be obtained from the Administrator before importing vehicles otherwise prohibited by the joint Customs-EPA regulations.

Catalyst Control Regulations

The current catalyst control regulations require that a catalyst-equipped vehicle which is covered by a certificate of conformity at the time of manufacture and which has been driven outside the United States, Canada and Mexico be entered under bond to insure replacement of its catalyst, unless the vehicle is included in a catalyst control program maintained by the vehicle manufacturer or a U.S. Government agency. The purpose of these regulations is to insure the replacement of contaminated catalysts on vehicles which have been driven extensively on leaded gas, which is the only type of gas available in most foreign countries.

A vehicle subject to these regulations must be entered under bond until the catalyst has been replaced and a release has been given by EPA. In order to obtain a release, the importer must forward to EPA documentary proof of catalyst replacement (e.g., a work order and parts receipts for required maintenance).

The proposed regulations will eliminate the bonding requirement for those individuals who qualify for the exemption described earlier. That is, an individual importing a catalyst-equipped vehicle operated outside the United States, Canada and Mexico will not be required to retrofit the catalyst if the individual is importing the car for personal use and is importing a nonconforming car for the first time since December 31, 1970.

EPA believes that sufficient incentive exists to encourage owners to retrofit catalysts prior to or immediately following importation. Many states have laws prohibiting operation of vehicles with inoperative emission controls. In addition, many states will have inspection/maintenance programs designed to test vehicle emissions. These tests will encourage vehicle

owners to maintain a properly functioning emission control system.

Many vehicle manufacturers and U.S. Government agencies have catalyst-retrofit programs currently in effect. EPA anticipates that these programs will continue to be offered.

Record Keeping and Vehicle Inspection

Another problem associated with the current regulations is that they do not require record keeping and do not explicitly authorize EPA inspection of either the records of commercial importers, or commercially imported vehicles or engines. Without these requirements, it is virtually impossible for EPA personnel to check the veracity of statements made regarding vehicle importations. EPA is proposing new regulations to require record keeping and to allow vehicle inspection by EPA under the authority of sections 203, 206, 208, and 301 of the Act.

The proposed record keeping regulations would be applicable to all manufacturers, including importers for resale, but would not be applicable to individual importers. Generally, a manufacturer would be required to establish and maintain records, correspondence and other documents relating to the purchase, sale, registration and importation of imported motor vehicles and engines. The proposed regulation details which specific records must be kept. Further, EPA Enforcement Officers are authorized to inspect or copy these records and, where appropriate, to seek a warrant authorizing the inspection or copying.

The proposed vehicle inspection regulations would be applicable to manufacturers, including importers for resale, but not to individuals. EPA Enforcement Officers are authorized to inspect both imported vehicles or engines in the hands of a manufacturer, and uncertified vehicles or engines which are in the hands of a consignee and which have been conditionally admitted to the United States pending approval of an application for certification.

EPA Enforcement Officers also are authorized, where appropriate, to seek a warrant authorizing the inspection. If the person who is subject to such a request has transferred ownership interest in the vehicle or engine, he may satisfy any inspection requirements by producing documentary evidence showing the transferee's indentity.

A manufacturer would violate section 203 of the Act, and would be subject to the sanctions specified in sections 204 and 205 of the Act by failing to maintain required records and by refusing to comply with a request for record or vehicle inspection unless a warrant or court order authorizing the inspection is required by law and is not presented. A warrant is not required to conduct an inspection of an item in the process of entering the country provided that the item has not passed from the complete control of U.S. Customs officials. See *United States* v. *Ramsey*, 431 U.S. 606 (1977). Under these circumstances, a manufacturer would violate section 203 of the Act by refusing to permit a warrantless inspection of a motor vehicle or any related documents described in 40 CFR 85.1509.

EPA specifically invites comments on ways that any reporting or record keeping burdens associated with these regulations might be reduced. Under EPA's new "sunset" policy for reporting requirements in regulations, the reporting requirements in this regulation will automatically expire five years from the date of promulgation, unless EPA take affirmative action to extend them. To accomplish this, a provision automatically terminating the reporting requirements at that time will be included in the text of the final regulation.

Miscellaneous Changes

Besides the above changes, the proposed regulations also include various technical changes which serve to clarify the language and organization of the regulations. Because these changes are numerous and make no substantive changes in the operation of the regulations, supplementary information regarding these changes is not considered appropriate.

Environmental Impact

As previously stated, the Agency expects no adverse environmental impact as a result of these regulations. No voluntary environmental impact statement (EIS) has been prepared pursuant to EPA guidelines set forth in 39 FR 37419.

Evaluation Plan

EPA intends to review the effectiveness and need for continuation of the provisions contained in this action no more than five years after initial implementation of the final regulation.

Note.—The Environmental Protection Agency has determined that this document does not constitute a "significant" regulation requiring the preparation of a Regulatory Analysis under Executive Order 12044.

Dated: May 1, 1980.

Douglas M. Costle,

Administrator.

Accordingly, it is proposed that 40 CFR Part 85, Subpart P be amended by revising as follows:

Subpart P—Importation of Motor Vehicles and Motor Vehicle Engines

Sec.

85.1501 Applicability.
85.1502 Definitions.
85.1503 Export exemptions.
85.1504 Qualified exemption for first-time importations by individuals.
85.1505 Display, testing and racing exemptions.
85.1506 National security exemptions.
85.1507 Admission pending certification.
85.1508 Exemption for repairs or alterations.
85.1509 Maintenance and inspection of records.
85.1510 Inspection of imported motor vehicles and engines.
85.1511 Prohibited acts; penalties.

Authority: Secs. 203, 206, 208 and 301(a), Clean Air Act, as amended (42 U.S.C. 7522, 7525, 7542 and 7601(a), formerly 42 U.S.C. 1857f–2, 1857f–5, 1857f–6 and 1857g(a)) unless otherwise noted.

Subpart P—Importation of Motor Vehicles and Motor Vehicle Engines

§ 85.1501 Applicability.

(a) This subpart is applicable to new motor vehicles and new motor vehicle engines which are offered for importation or imported into the United States.

(b) Regulations prescribing further procedures for importation of motor vehicles and motor vehicle engines into the United States are set forth at 19 CFR 12.73.

§ 85.1502 Definitions.

As used in this subpart, all terms not defined herein have the meanings given them in 19 CFR 12.73, in the Clean Air Act, as amended, and elsewhere in Parts 85 and 86 of this chapter.

(1) *Act.* The Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*)

(2) *Manufacturer.* The definition set forth in section 216(1) of the Act is adopted, so that the term includes any person importing new motor vehicles or new motor vehicle engines for resale or anyone acting for and under the control of any such person in connection with the distribution of new motor vehicles or new motor vehicle engines.

(3) *Non-resident.* The definition at 19 CFR 148.2 is adopted.

(4) *United States.* United States includes the Customs territory of the United States as defined in 19 U.S.C. 1202, and the Virgin Islands, Guam, American Samoa and the

Commonwealth of the Northern Mariana Islands.

§ 85.1503 Export exemptions.

(a) Export exemptions are subject to the regulations found at 40 CFR 85.1704 and 85.1707.

(b) Motor vehicles and motor vehicle engines may be imported under an export exemption by a person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines. A person who is not so engaged may not import under an export exemption.

§ 85.1504 Qualified exemption for first-time importations by individuals.

(a) Any importer, consignee or vehicle owner who is not a manufacturer may import one motor vehicle or motor vehicle engine not covered by a certificate of conformity if both of the following criteria are met:

(1) The importer, consignee or vehicle owner is importing or attempting to import a nonconforming motor vehicle or motor vehicle engine for the first time since December 31, 1970, and

(2) The importer, consignee or vehicle owner is importing the motor vehicle or motor vehicle engine solely for personal use and not for resale.

§ 85.1505 Display, testing and racing exemptions.

(a) Display vehicles or engines may be imported by any person. Display vehicles or engines may not be sold in the United States and may not be registered or licensed for use on, or operated on, public roads or highways in the United States.

(b) Test vehicles or engines may be imported by any person who is able to satisfy the requirements of the regulations found at 40 CFR 85.1705 and 85.1708. Test vehicles or engines may be operated on, and registered for use on, public roads or highways for a period not exceeding one year from the date of importation provided that the operation is an integral part of the test and prior written approval has been obtained from the Administrator.

(c) Racing vehicles may be imported by any person provided the vehicles meet one or more of the exclusion criteria specified in 40 CFR 85.1703. Racing vehicles may not be registered or licensed for use on, or operated on, public roads and highways in the United States.

§ 85.1506 National security exemptions.

(a) National security exemptions are subject to the regulations found at 40 CFR 85.1706.

(b) Motor vehicles and motor vehicle engines may be imported under this section by a person who is a manufacturer. A person who is not a manufacturer may not import under a national security exemption.

§ 85.1507 Admission pending certification.

(a) A motor vehicle or motor vehicle engine offered for importation or imported under 19 CFR 12.73(b)(5)(viii) under a declaration that it is one of a class of vehicles or engines represented by test vehicles or engines for which an application for a certificate of conformity with Federal motor vehicle emission standards is pending before the Administrator, may be admitted into the United States, but shall be considered an illegal importation in violation of section 203(a)(1) of the Act unless:

(1) Not later than 5 days following admission, the importer or consignee has submitted to the Administrator a written request that the subject vehicles or engines be permitted admission pending certification of the test vehicle or engine which represents the class of vehicles or engines to which the subject vehicles or engines belong, which request shall contain the following:

(i) Identification of the test vehicles or engines;

(ii) Identification of the place where the subject vehicles or engines will be stored while the application for certification is pending before the Administrator. The vehicles or engines may not be stored on the premises of, or be subject to access by, or control of, a dealer;

(iii) An acknowledgement of responsibility for custody of the vehicles or engines while certification is pending;

(2) The importer or consignee permits EPA Enforcement Officers to conduct inspection which are authorized by 40 CFR 85.1509 and 85.1510 and, where required by law, by a warrant or court order; and

(3) The Administrator issues a written determination stating that the vehicles or engines are covered by a certificate of conformity.

(b) Admission under this section is available only to manufacturers. A person who is not a manufacturer may not be granted admission under this section.

(c) A motor vehicle or engine admitted under this section shall be stored and may not be sold, offered for sale, introduced or delivered for introduction into commerce until the Administrator issues a written determination stating that the vehicles or engines are covered by a certificate of conformity. Failure to comply with this regulation is a violation of section 203(a)(1) of the Act.

§ 85.1508 Exemption for repairs or alterations.

Owners of fleet vehicles or engines may import such vehicles or engines solely for purposes of repairs or alterations. Such vehicles or engines may not be registered or licensed in the United States for use on public roads and highways. They may not be sold in the United States and must be exported upon completion of the repairs or alterations.

§ 85.1509 Maintenance and inspection of records.

(a) The manufacturer of a motor vehicle or motor vehicle engine subject to any of the regulations in this subpart shall establish, maintain and retain for three years from the date of entry adequately organized and indexed records, correspondence and other documents relating to the purchase, sale, registration and importation of motor vehicles and engines, including but not limited to:

(1) The declaration required by 19 CFR 12.73; and

(2) Any documents or other written information required by a Federal, state or local government agency to be submitted or retained in conjunction with the importation, registration or titling of motor vehicles or motor vehicle engines; and

(3) All bills of sale, invoices, purchase agreements, purchase orders, principal-agent agreements and correspondence among the importer, the purchaser, and the seller, of each vehicle or engine, and any agents of the above parties; and

(4) All shipping documents.

(b) In order to allow the Administrator to determine whether a manufacturer is complying with the provisions of this subpart, duly designated EPA Enforcement Officers are authorized to inspect and copy at reasonable times, and upon presentation of appropriate credentials, the records, correspondence, and other documents described in this section.

(c) The duly designated Enforcement Officers are authorized to proceed *ex parte* to seek warrants authorizing the inspection or copying of these materials whether or not the Enforcement Officers first attempted to seek permission from the custodian of the materials to inspect or copy those materials.

(d) Unless otherwise specified in § 85.1511, it is not a violation of the Act for any person to refuse to permit duly designated EPA Enforcement Officers to conduct inspection and copying activities as authorized by this section without any authorizing warrant or court order.

§ 85.1510 Inspection of imported motor vehicles and engines.

(a) In order to allow the Administrator to determine whether a manufacturer or consignee is complying with the provisions of this subpart, duly designated EPA Officers are authorized to inspect at reasonable times, and upon presentation of appropriate credentials, motor vehicles and motor vehicle engines:

(1) in the hands of a manufacturer and imported under 19 CFR 12.73 and 40 CFR Part 85, Subpart P by a manufacturer, or

(2) in the hands of a consignee and admitted into the United States under § 85.1507.

(b) The duly designated Enforcement Officers are authorized to proceed *ex parte* to seek warrants authorizing the inspection of the motor vehicles or motor vehicle engines described in paragraph (a) of this section whether or not the Enforcement Officers first attempted to seek permission from the manufacturer or consignee to inspect these motor vehicles or motor vehicle engines.

(c) Unless otherwise specified in § 85.1511, it is not a violation of the Act for any person to refuse to permit duly designated EPA Enforcement Officers to conduct inspection activities as authorized by this section without an authorizing warrant or court order.

(d) A person who is subject to a request for inspection under this section and who no longer retains any legal or equitable interest in the vehicle or engine for which inspection is requested, may comply with this section by presenting to the EPA Enforcement Officers documentary evidence showing the identity of the party to whom the importer or consignee transferred his legal or equitable interest in the subject vehicle or engine.

§ 85.1511 Prohibited acts; penalties.

(a) The importation of a motor vehicle or motor vehicle engine other than in accordance with this Subpart and the entry regulations of the U.S. Customs Service at 19 CFR 12.73 is prohibited, unless the Administrator grants a specific exemption based on extreme hardship or extraordinary circumstances.

(b) A manufacturer violates section 203(a)(2) of the Act and is subject to a civil suit under sections 204 and 205 of the Act:

(1) By failing to permit EPA Enforcement Officers to conduct inspections and copying activities authorized in section 85.1509 of this Subpart when the inspections and copying activities:

(i) Are authorized by a warrant or court order presented to the custodian of the records, correspondence, or other documents at issue; or

(ii) Are not required by law to be authorized in a warrant; or

(2) By failing to permit EPA Enforcement Officers to conduct inspections authorized in § 85.1510, other than inspections of motor vehicles or motor vehicle engines admitted into the United States under § 85.1507, when the inspections:

(i) Are authorized by a warrant or court order presented to the manufacturer or consignee; or

(ii) Are not required by law to be authorized in a warrant.

(c) A manufacturer of motor vehicles or motor vehicle engines admitted into the United States under § 85.1507 violates section 203(a)(1) of the Act and is subject to a civil suit under section 204 and 205 of the Act:

(1) By failing to permit EPA Enforcement Officers to conduct inspection and copying activities authorized in § 85.1509; or

(2) By failing to permit EPA Enforcement Officers to conduct inspections authorized in § 85.1510.

(Sec. 203, 206, 208 and 301(a), Clean Air Act, as amended (42 U.S.C. 7522, 7525, 7542 and 7601(a), formerly 42 U.S.C. 1857f–2, 1857f–5, 1857f–6 and 1857g(a)) unless otherwise noted).

[FR Doc. 80–21768 Filed 7–18–80; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

Proposed Changes to the Customs Regulations Relating to the Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act

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

ACTION: Proposed rule.

SUMMARY: This document proposes to amend § 12.73, Customs Regulations, relating to the importation of motor vehicles and motor vehicle engines under the Clean Air Act. Although § 12.73 currently provides a deterrent to the importation of motor vehicles and motor vehicle engines which do not conform to Federal emission standards, Customs and the Environmental Protection Agency have identified shortcomings in several areas. The proposed rule, which is not considered to be significant, is intended to improve Customs administrative and enforcement efficiency and the effectiveness of the regulations.

DATES: Comments must be received on or before September 19, 1980.

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

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination and Liquidation Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8651).

SUPPLEMENTARY INFORMATION:

Background

Under section 202 of the Clean Air Act, as amended (42 U.S.C. 7521, formerly 42 U.S.C. 1857f–1) ("the Act"), the Department of Health, Education, and Welfare and the Environmental Protection Agency ("EPA") have promulgated regulations in 40 CFR Parts 85 and 86 which prescribe standards for the control of emissions from certain motor vehicles and motor vehicle engines. The importation into the United States of a vehicle or engine manufactured after the effective date of an emission control standard applicable to the vehicle or engine (or which would have been applicable had the vehicle or engine been manufactured for importation into the United States) is prohibited by the Act unless the vehicle or engine is covered by a certificate of conformity with applicable standards or is exempted by the Administrator, EPA.

In conjunction with EPA, Customs enforces those laws and regulations applicable to emission controls for imported vehicles and engines. Regulations relating to those importations are found in § 12.73, Customs Regulations (19 CFR 12.73), and in the EPA regulations at 40 CFR Part 85, Subpart P. EPA is proposing several major changes in its regulations. An extensive discussion of the reasons for, and the anticipated effects of, those changes is found elsewhere in this issue of the **Federal Register** in the preamble to the proposed revision of the EPA regulations. If adopted, the revision to the EPA regulations would require corresponding changes to § 12.73, Customs Regulations.

If a vehicle or engine now fails to comply with emission standards, an importer may post a bond with Customs and bring the vehicle or engine into conformity within 90 days of entry. This procedure has misled some importers into believing that modification is an

easy option. Likewise, although an importer may post a bond and enter a vehicle or engine to attempt to demonstrate that it conforms by subjecting it to the full Federal test procedure, in some cases this is expensive and impracticable.

A substantial burden is imposed upon Customs and EPA resources in administering and enforcing present procedures. To alleviate this burden, the proposed regulations would eliminate the provisions currently found in § 12.73(c) allowing conditional importation under bond. Further, because of potential hardships, the proposed regulations would not apply to an individual who has not imported or attempted to import a nonconforming vehicle or engine since December 31, 1970, the effective date of the Clean Air Act Amendments of 1970, and who wishes to import a vehicle or engine for personal use and not for resale. The individual could utilize this exemption only once.

Very limited exemptions for national security and repairs or alterations would be added, and other exclusions and exemption in § 12.73 would be strengthened or clarified.

Authority

The authority for the proposed amendment is R.S. 251, as amended, section 484, 46 Stat. 722, as amended, 759, section 203, 79 Stat. 993, as amended; 19 U.S.C. 66, 1484, 1624, 42 U.S.C. 7522, 7601 (formerly 42 U.S.C. 1857f–2, 1857g).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b), during regular business hours at the Regulations and Research Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Inapplicability of E.O. 12044

This document is not subject to the Treasury Department directive of November 6, 1978 (43 FR 52120), implementing E.O. 12044, "Improving Government Regulations", because the proposal was in process before May 22, 1978, the effective date of the directive.

Drafting Information

The principal author of this document was Shannon McCarthy, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and EPA participated in its development.

Proposed Amendment

PART 12—SPECIAL CLASSES OF MERCHANDISE

It is proposed to amend § 12.73, Customs Regulations (19 CFR 12.73), to read as follows:

Entry of Motor Vehicles and Motor Vehicle Engines Under The Clean Air Act, As Amended

§ 12.73 Federal motor vehicle air pollution control.

(a) *Standards prescribed by the Department of Health, Education, and Welfare or the Environmental Protection Agency.* (1) Certain new motor vehicles and new motor vehicle engines are subject to emission standards prescribed by the Department of Health, Education, and Welfare ("HEW") or the Environmental Protection Agency ("EPA") under section 202 of the Clean Air Act (42 U.S.C. 7551, formerly 42 U.S.C. 1857f–1), as set forth in 40 CFR Parts 85 and 86. EPA regulations prescribing procedures for the importation of motor vehicles and motor vehicle engines are found at 40 CFR Part 85, Subpart P.

(2) For purposes of this section, "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or a highway. "New motor vehicle" or "new motor vehicle engine" means a motor vehicle or motor vehicle engine manufactured after the effective date of a regulation issued under section 202 of the Act which is applicable to the vehicle or engine if the vehicle or engine is manufactured for importation into the United States, or which would have been applicable had the vehicle or engine been manufactured for importation into the United States.

(b) *Requirements for entry and release.* (1) Each motor vehicle or motor vehicle engine offered for importation into the customs territory of the United States or the U.S. Virgin Islands will be refused entry and will not be released from Customs custody unless there is filed witht he entry a declaration, in dupliate, signed by the importer or consignee, which declares or affirms one of the following:

(i) The motor vehicle or motor vehicle engine conforms to all applicable Federal motor vehicle emission standards because either—

(A) The 1968, 1969, or 1970 model year motor vehicle or motor vehicle engine is covered by a certificate of conformity with Federal motor vehicle emission standards, was originally manufactured in conformity with EPA or HEW regulations, and has affixed a certification label relating to safety standards, in accordance with section 114 of Pub. L. 89–563 (15 U.S.C. 1403), regulations issued thereunder by the Secretary of Transportation (49 CFR Parts 555, 567, 568, and 571), and the regulations in § 12.80(b)(1)(ii); or

(B) The 1971 or later model year motor vehicle or motor vehicle engine is covered by a certificate of conformity with Federal motor vehicle emission standards, was originally manufactured in conformity with EPA regulations, and is tagged or labeled by the manufacturer in accordance with 40 CFR Parts 85 and 86.

(ii) The motor vehicle or motor vehicle engine is intended solely for export, and both the vehicle or engine and its container bear a label or tag indicating that it is intended solely for export (see 40 CFR 85.1503 and 85.1707).

(iii) The importer or consignee is a nonresident of the United States, is importing the motor vehicle or motor vehicle engine solely for personal use for a period not exceeding one year from the date of entry, and the vehicle or engine will not be sold in the United States.

(iv) The importer, consignee or motor vehicle owner is entitled to an exemption as an individual (not a manufacturer or importer for resale) importing one motor vehicle or motor vehicle engine not covered by a certificate of conformity if both of the following criteria are met:

(A) The individual is importing or attempting to import one nonconforming motor vehicle or motor vehicle engine for the first time since December 31, 1970, and

(B) The individual is importing the motor vehicle or motor engine solely for personal use and not for resale in the United States.

(v) The importer or consignee—

(A) Is a member of the armed forces of a foreign country on assignment in the United States; a member of the Secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288), as listed in § 148.87 of this chapter, on assignment in the United States; or a member of the personnel of a foreign government on assignment in the United States who is within the class of person for whom free entry of vehicles has been authorized by the Department of State;

(B) Is importing the motor vehicle or motor vehicle engine for purposes other than resale; and

(C) A copy of his official orders, if any, is attached to the declaration (or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the embassy to which he is accredited is stated on the declaration).

(vi) The motor vehicle is a racing vehicle which meets one or more of the exclusion criteria found at 40 CFR 85.1703(a), and the vehicle will not be registered or licensed for use on, or operated on, public roads or highways in the United States (see 40 CFR 85.1505(c)).

(vii) The motor vehicle or motor vehicle engine is one of a class of vehicles or engines for which an application for a certificate of conformity is pending before the Administrator, EPA (see 40 CFR 85.1507).

(viii) The motor vehicle or motor vehicle engine is being imported solely for one of the following purposes, subject to the conditions stated after each:

(A) Display, and will not be sold, registered or licensed for use on, or operated on, public roads or highways in the United States (see 40 CFR 85.1505(a)).

(B) Testing for a period not exceeding one year from the date of importation, and will not be sold, registered or licensed for use on, or operated on, public roads or highways in the United States unless such an activity is an integral part of the test and prior written approval has been obtained from the Administrator, EPA (see 40 CFR 85.1505(b), 85.1705, 85.1708).

(C) Repairs, or alterations, and will not be sold, registered or licensed for use on, or operated on, public roads or highways in the United States (see 40 CFR 85.1508).

(D) National security (see 40 CFR 85.1506, 85.1702(a)(2), 85.1706).

(ix) The motor vehicle or motor vehicle engine was manufactured on a date when no applicable standards were in force. This declaration category may be used for the following:

(A) motor vehicles manufactured before the 1968 model year.

(B) Non-chassis mounted engines to be used in the light-duty vehicles or light-duty trucks (see 40 CFR 86.077–2 and 86.079–2).

(C) Engines manufactured before January 1, 1970, for use in heavy-duty vehicles (see 40 CFR 86.077–2 and 86.089–2).

(D) Diesel-fueled light-duty vehicles or light-duty trucks manufactured before the 1975 model year.

(E) Light-duty vehicles or light-duty trucks originally manufactured to run on a fuel other than gasoline or diesel fuel.

(F) Motorcycles manufactured before January 1, 1978 (see CFR 86.401–78 and 86.402–78).

(2) Each declaration filed under paragraph (b)(1) of this section shall include the name and address in the United States of the importer and the consignee, the date, port of entry, entry number (if applicable), make, model, and model year of the motor vehicle or motor vehicle engine, and the complete vehicle identification number of the motor vehicle, or the serial number of the motor vehicle engine (if not chassis mounted).

(c) *Waiver of declaration requirements.* The requirement that a declaration be filed under paragraph (b) of this section as a condition to the introduction of a motor vehicle or motor vehicle engine into the customs territory of the United States or the U.S. Virgin Islands may be waived by the district director for a nonresident regularly entering the United States by a motor vehicle at the Canadian or Mexican border who has received from the district director an appropriate means of identification, which has been affixed to the vehicle.

(d) *Motor vehicles or motor vehicle engines denied entry.* If a motor vehicle or motor vehicle engine is denied entry under the provisions of paragraph (b) of this section, the district director shall refuse to release the motor vehicle or motor vehicle engine for entry into the customs territory of the United States or the U.S. Virgin Islands and shall give notice of refusal to the importer or consignee.

(e) *Detention and disposition of motor vehicle or motor vehicles engines denied entry—(1) Detention by district director.* A motor vehicle or motor vehicle engine denied entry under paragraph (d) of this section shall be detained by the district director at the risk and expense of the importer or consignee until the completed declaration is filed or other disposition is ordered by the Administrator, EPA. The vehicle or engine may be detained for a period not to exceed 30 days after entry, or for a period not to exceed 60 days after entry, if additional time is granted by the district director. An importer, consignee, owner or agent requesting an extension of the 30-day period shall file an application with the district director at the port of entry.

(2) *Disposition.* A motor vehicle or motor vehicle engine denied entry under paragraph (d) of this section which is not disposed of by order of the Administrator, EPA shall be disposed of under applicable Customs laws and regulations. However, Customs may not dispose of the motor vehicle or motor vehicle engine in such a manner that, either directly or indirectly, an ultimate consumer is sold a new motor vehicle or new motor vehicle engine that fails to comply with applicable Federal emission control regulations.

(f) *Prohibited importations.* The importation of a motor vehicle or motor vehicle engine, other than in accordance with this section and the importation regulations of the EPA in 40 CFR Part 85, Subpart P, is prohibited unless the Administrator, EPA, grants a specific exemption based on extreme hardship or extraordinary circumstances.

(See 40 CFR 85.1511(a)).

Robert E. Chasen,

Commissioner of Customs.

Approved: June 12, 1980.

Richard J. Davis.

Assistant Secretary of the Treasury.

Douglas M. Costle,

Administrator,

Environmental Protection Agency.

[FR Doc. 80–21790 Filed 7–18–80; 8:45 am]

BILLING CODE 4810-22-M

federal register

Monday
July 21, 1980

Part V

Department of Transportation

Coast Guard

Puget Sound; Vessel Traffic Service (VTS) Regulations; Tank Vessel Operations; and Vessel Traffic Service (VTS) Boundary; Final Rule and Proposed Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 78-041b]

Puget Sound Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: On April 12, 1979, the Coast Guard published a notice of proposed rulemaking at 44 FR 21974 concerning tank vessel operations, vessel traffic service (VTS) boundaries, and vessel traffic service regulations in Puget Sound. The Coast Guard has decided to split the original docket into three separate dockets: 1. Tank Vessel Operations—Puget Sound, CGD 78-041, published in this issue of the **Federal Register** (to conduct further studies concerning tank vessel operations); 2. Puget Sound VTS Boundary, CGD 78-041a, published in this issue of the **Federal Register** (to propose a VTS boundary which coincides with the ine which delineates the area of applicability of either the 1972 International Regulations for Preventing Collisions at Sea (COLREGS) or the Navigation Rules for Harbors, Rivers, and Inland Waters (Inlands Rules)); and 3. Puget Sound VTS Regulations, CGD 78-041b, (to publish as a final rule the remainder of the vessel traffic service regulations). This action is being taken so that adequate study and attention may be given to the tank vessel operations portion of the docket without further delaying the amendments to the Puget Sound VTS regulations. This final rule (CGD 78-041b) amends the regulations regarding: the applicability of the VTS regulations to small passenger vessels; definitions; reporting requirements regarding vessel speed and impairment to the operation vessel speed and wake limits; Rosario Strait entrance requirements; and the descriptions of the separation zones and the precautionary areas located within the VTS Area. In addition, minor editorial changes which are explained under the "Discussion" heading, have been incorporated into this final rule. These regulations will result in more efficient management of the VTS.

EFFECTIVE DATE: This rule is effective on August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel W. Ziegfeld, Office of Marine Environment and Systems (G-WWM/11), Room 1104, U.S. Coast Guard Headquarters, 2100 Second Street, SW, 20593, (202) 426-1934. Normal office hours are 7 a.m. to 5 p.m., Monday through Thursday.

SUPPLEMENTARY INFORMATION: On April 12, 1979, the Coast Guard published a proposed rule (44 FR 21974) concerning these amendments. The public was given until September 15, 1979, to submit comments. The Coast Guard received 132 written comments, six of which addressed the proposals which are made final by this rulemaking. Public hearings were held in Washington State at Seattle on 11 & 12 June 1979, at Mount Vernon on 13 June 1979, and at Port Angeles on 14 June 1979. Seventy-three people made oral statements, one of which addressed these final rules.

Drafting Information

The principal persons involved in drafting this rule are Commander John L. Patterson, Project Manager, Office of Marine Environment and Systems, and Lieutenant Commander Jack Orchard, Project Counsel, Office of the Chief Counsel.

Discussion of the Major Comments

The regulations contained in this final rule were published as proposed rules under Coast Guard docket 78-041 on April 12, 1979. Of the seven oral and written comments received concerning these regulations, five referred to § 161.157, entitled "Vessel speed and wake control." Two of the comments supported the proposal without suggesting any changes. The third comment suggested that rather than require vessels to proceed so as to create a "minimum wake" the requirement should be to "minimize the risk of wake damage." The fourth comment opposed a speed restriction which would reduce the speed of vessels to "bare steerageway."

The intent of this regulation is to prevent property damage, bank erosion, and water pollution which may be caused by vessel wakes. The risk of wake damage depends upon many variables. The width of the waterway, the topography of the shoreline, and the shape, size, speed, and load condition of the vessel all contribute signficantly to the size of any wake which is produced. The proposed rule was designed to reduce wake damage by limiting vessel speed to "steerageway". As the comments pointed out, it is unnecessary as well as impractical to impose such a restrictive requirement throughout a large portion of the waters of Puget Sound. For these reasons, the Coast Guard has decided to change the requirement in the final rule from "minimum wake" to "minimize the risk of wake damage."

It is the responsibility of the master of any vessel to ensure that his vessel is proceeding at a speed which minimizes wake damage at all times. However, the Coast Guard has determined that the risk of wake damage increases substantially when the tide reaches a stage of 11 feet at Seattle. This rule is intended to alert masters of the increased wake damage sensitivity of the environment which occurs when the tide reaches 11 feet, and to require them to proceed so as to minimize the risk of wake damage.

This requirement is applicable throughout the Puget Sound VTS and not just "south and east of a line drawn between Point Wilson and Davidson Rocks." In some areas, to proceed so as to minimize the risk of wake damage may require a vessel to proceed at a speed which will produce "minimum wake." In other areas greater speeds may be attained without increasing the risk of wake damage. The maximum acceptable speed of any particular vessel will vary depending upon the variables mentioned previously.

The fifth comment suggested that rather than having the VTC merely advise vessels "that the tide has exceeded a stage of 11 feet in Seattle," the rule should authorize the VTC to direct vessels to proceed so as to minimize the risk of wake damage. Because some persons might interpret the proposed language to be advisory rather than mandatory, the final rule has been rewritten and the reference to "advice from the VTC" has been deleted. However, in order to facilitate compliance with the rule, the VTC will monitor the tide at Seattle and will remind vessels when the tide exceeds 11 feet.

One comment endorsed the proposal contained in Section 161.174(b) which required all vessels of 75,000 DWT to obtain permission before entering Rosario Strait.

One comment, which addressed § 161.128 entitled "Initial report", suggested that the language proposed in paragraph (f) should be changed from "anticipated vessel speed in knots while in the VTS Area," to "anticipated maximum speed in knots vessel able to maintain while in the VTS Area." The vessel speed reporting requirement of this section and the "change of speed of more than one knot" reporting requirement of § 161.142, provide information which allows the VTC to maintain an accurate plot of all vessel contacts within the VTS Area. The accuracy of the plot is directly dependent upon the accuracy of the information received by the VTC regarding vessel speed and vessel speed

changes. Because the wording suggested in the comment may convey the impression that speed changes are not required to be reported, the proposed rule is made final without change.

Editorial Changes

The Puget Sound VTS was the first VTS published by the Coast Guard in Subpart B to Part 161 of Title 33, Code of Federal Regulations. Throughout the original sections which deal with the Puget Sound VTS, reference is made to "this subpart," even though Subpart B presently consists of several different VTS systems. Therefore, to eliminate confusion, where appropriate, the term "this subpart" is replaced by the phrase "sections 161.100 through 161.199". These sections comprise that portion of subpart B which deals with the Puget Sound VTS. The sections affected are §§ 161.101, 161.103, 161.104, 161.105, 161.109, 161.111, 161.122, 161.124, 161.126, 161.134, 161.174, and 161.188.

In addition, the categorization of terms as (a)(b)(c) . . . under "§ 161.103 Definitions" has been dropped so that definitions may be added in the future without having to reletter each term.

A final editorial change has been made to the language proposed in § 161.136 regarding reports by ferry vessels. The proposed language allowed ferry vessels operating on a route "that crosses the TSS," to provide an abbreviated report. By implication, a ferry vessel not crossing the TSS would be required to provide a full report. The intent of the Coast Guard is to allow all ferry vessels to provide an abbreviated report. For this reason, the phrase "that crosses the TSS" has been deleted from the final rule.

The Coast Guard has determined that since these editorial changes impose no procedural nor substantive requirements, notice and public procedure are unnecessary and they may be incorporated into this final rule under the authority of 5 U.S.C. 553(b).

This regulation has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). A Final Evaluation has not been prepared since the expected impact of this rule is so minimal that an evaluation is not necessary. This determination is based upon a finding that the amendments contained in this rulemaking are either editorial changes, provide clarification of existing responsibilities, or establish reporting requirements which result in no significant economic burdens on the public or on the government.

The public docket contains an Environmental Assessment and a Finding of No Significant Environmental Impact concerning these rules.

In consideration of the foregoing, Part 161 of Title 33, Code of Federal Regulations is amended to read as follows:

1. Section 161.101 is amended by revising paragraphs (a), (b), (c) introductory text, and adding paragraph (c)(5) to read as follows:

§ 161.101 Purpose and applicability.

(a) Sections 161.100 through 161.199 prescribe rules for vessel operation in the Puget Sound Vessel Traffic Service Area (VTS Area) to prevent collisions and groundings and to protect the navigable waters of the VTS Area from environmental harm resulting from collisions and groundings.

(b) The General Rules in §§ 161.101–161.111 and the TSS Rules in §§ 161.150–161.154 and 161.156(b) and (c) apply to the operation of all vessels.

(c) The Communications Rules in §§ 161.120–161.136, the Vessel Movement Rules in § 161.142, the TSS Rule in § 161.156(a), the Vessel Speed and Wake Control Rule in § 161.157, and the Rosario Strait Rules in §§ 161.170–161.174 apply only to the operation of—

(1) * * *

* * * * * *

(5) Each small passenger carrying vessel certificated in accordance with 46 CFR Part 175 through 187 (Subchapter T) when carrying more than six passengers.

2. By revising § 161.103 to read as follows:

§ 161.103 Definitions.

As used in § 161.100 through § 161.199—

"Displacement ton" means the weight of water displaced by a vessel expressed in tons of 2,240 pounds.

"ETA" means estimated time of arrival.

"Person" includes an individual, firm, corporation, association, partnership, and governmental entity.

"Precautionary Area" means an area of the TSS at the entrance of one or more traffic lanes where vessel traffic converges from two or more directions.

"Separation Zone" means an area of the TSS that is located between two traffic lanes to keep vessels proceeding in opposite directions a safe distance apart.

"Traffic lane" means an area of the TSS in which all vessels ordinarily proceed in the same direction.

"Traffic Separation Scheme" (TSS) means the network of traffic lanes, separation zones, and precautionary areas in the VTS Area.

"Vessel Traffic Center" (VTC) means the shore based facility that operates the Puget Sound Vessel Traffic Service.

"Vessel Traffic Service Area" (VTS Area) means the area described in § 161.180.

3. By revising § 161.104 to read as follows:

§ 161.104 Vessel operation in the VTS Area.

No person may cause or authorize the operation of a vessel in the VTS Area contrary to the rules contained in §§ 161.100 through 161.199.

4. Section 161.105 is amended by revising the introductory text, and paragraph (f) and by adding paragraph (g) to read as follows:

§ 161.105 Laws and regulations not affected.

Nothing in §§ 161.100 through 161.199 is intended to relieve any person from complying with—

(a) * * *

* * * * * *

(f) International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

(g) Any other applicable laws or regulations.

5. By revising § 161.107(a) to read as follows:

§ 161.107 VTC directions.

(a) During conditions of vessel congestion, adverse weather, reduced visibility, or other hazardous circumstances in the VTS Area, the VTC may issue directions to control and supervise traffic, and may specify times when vessels may enter, move within or through, or depart from ports, harbors, or other waters in the VTS Area.

* * * * * *

6. By revising § 161.109 to read as follows:

§ 161.109 Authorization to deviate from these rules.

(a) The Commander, Thirteenth Coast Guard District, may, upon request, issue an authorization to deviate from any rule in §§ 161.100 through 161.199 if he finds that the proposed operations under the authorization can be done safely. An application for an authorization must state the need for the authorization and describe the proposed operations.

(b) The VTC, may, upon request, issue an authorization to deviate from any rule in §§ 161.100 through 161.199 for a voyage or part of a voyage on which a vessel is embarked or about to embark.

7. By revising § 161.111 to read as follows:

§ 161.111 Emergencies.

In an emergency, any person may deviate from any provision contained in §§ 161.100 through 161.199 for a voyage or part of a voyage on which a vessel is embarked or about to embark.

8. By revising § 161.122 to read as follows:

§ 161.122 Radiotelephone equipment.

Each report required by §§ 161.100 through 161.199 to be made by radiotelephone, must be made using a radiotelephone that is capable of operation on the navigational bridge of the vessel, or, in the case of a dredge, at its main control station.

9. By revising § 161.124 to read as follows:

§ 161.124 English language.

Each report required by §§ 161.100 through 161.199 must be made in the English language.

10. By revising the introductory text of § 161.126 to read as follows:

§ 161.126 Time.

Each report required by §§ 161.100 through 161.199 must specify time using—

* * * * *

11. By revising § 161.128(f) to read as follows:

§ 161.128 Initial report.

* * * * *

(f) Anticipated vessel speed in knots while in the VTS Area.

* * * * *

12. By revising § 161.134 to read as follows:

§ 161.134 Report of emergency or radio failure.

Whenever the master of a vessel deviates from any provision in §§ 161.100 through 161.199 because of an emergency or radio failure, he shall report, or cause to be reported, the deviation to the VTC as soon as possible.

13. By revising § 161.135(a) to read as follows:

§ 161.135 Report of impairment to the operation of the vessel.

* * * * *

(a) Any condition on the vessel that may impair its navigation such as fire or defective propulsion machinery, steering equipment, radar, gyrocompass, echo depth sounding device, or communications equipment.

* * * * *

14. By revising § 161.136(a) to read as follows:

§ 161.136 Ferry vessels.

(a) A ferry vessel operating in the VTS Area on a schedule and a route both of which have been previously furnished to the VTC, need not comply with §§ 161.128, 161.131 and 161.142. However, each ferry vessel must report the following information to the VTC within five minutes of each departure from a ferry terminal:

(1) The name of the ferry vessel.

(2) Time and point of departure of the ferry vessel.

(3) Destination of the ferry vessel.

* * * * *

15. By adding a new § 161.157 to read as follows:

§ 161.157 Vessel speed and wake control.

When the tide exceeds a stage of 11.0 feet at Seattle, all vessels listed in § 161.101(c), operating in the waters of the VTS Area, must proceed at a speed that will minimize the risk of wake damage while maintaining the ability to maneuver safety.

16. Section 161.174 is amended by revising paragraphs (a)(2), (a)(4), and (b) to read as follows:

§ 161.174 Entering Rosario Strait.

(a) * * *

(1) * * *

(2) The radio equipment on the vessel that is used to transmit the reports required by §§ 161.100 through 161.199 is in operation;

(3) * * *

(4) The vessel is free of any conditions that may impair its navigation such as fire, defective propulsion machinery, steering equipment, radar, gyrocompass, echo depth sounding device, or internal communications equipment.

(b) A vessel of 75,000 DWT or above may not enter Rosario Strait unless permission to enter is obtained from the VTC.

17. Section 161.183 is amended by revising the introductory text to paragraph (c) and paragraphs (c)(1)(ii), (3)(ii), (5)(iii), (6)(i) through (iii), and (7) through (11), and adding a note to read as follows:

§ 161.183 Separation zones.

* * * * *

(c) The latitudes and longitudes describing the centerline of the sepration zone are:

(1) * * *

(ii) 48°11'37" N., 122°52'40" W.

* * * * *

(3) * * *

(ii) 48°13'04" N., 122°51'24" W.

* * * * *

(5) * * *

(iii) 48°13'22" N., 122°48'55" W.

(6) * * *

(i) 48°10'48" N., 122°46'58" W.

(ii) 48°06'48" N., 122°39'36" W.

(iii) 48°02'28" N., 122°38'20" W.

(7) Between precautionary area "SC" and "SE".

(i) 48°01'20" N., 122°37'37" W.

(ii) 47°57'53" N., 122°34'42" W.

(iii) 47°55'46" N., 122°30'14" W.

(8) Between precautionary area "SE" and "SG".

(i) 47°54'49" N., 122°29'17" W.

(ii) 47°48'31" N., 122°26'23" W.

(9) Between precautionary area "SC" and "SH".

(i) 47°45'19" N., 122°26'21" W.

(ii) 47°40'19" N., 122°27'38" W.

(10) Between precautionary area "SH" and "T".

(i) 47°39'05" N., 122°27'42" W.

(ii) 47°35'12" N., 122°27'06" W.

(11) Between precautionary area "T" and "TC".

(i) 47°33'59" N., 122°26'47" W.

(ii) 47°26'53" N., 122°24'12" W.

(iii) 47°23'07" N., 122°21'08" W.

(iv) 47°19'54" N., 122°26'37" W.

(12) Between precautionary area "CA" and "C".

(i) 48°44'15" N., 122°45'39" W.

(ii) 48°41'39" N., 122°43'34" W.

Note: The southbound lane of the traffic separation scheme described by paragraphs (c)(6)(i) and (6)(ii) is widened at its entrance from precautionary area "SA" by a line bearing 120.0°T from a point at the edge of precautionary area "SA" at latitude 48°10'04" N., longitude 122°47'41" W. to the point of first intersection with the southbound lane at latitude 48°09'14" N., longitude 122°45'30" W.

18. Section 161.187 is amended by revising paragraphs (f) through (k) and adding a new paragraph (l) to read as follows:

§ 161.187 Precautionary areas.

* * * * *

(f) Precautionary area "SA". A circular area of 4,000 yards radius centered at latitude 48°11'28" N., longitude 122°49'43" W.;

(g) Precautionary area "SC". A circular area of 1,250 yards radius centered at latitude 48°01'52" N., longitude 122°38'05" W.;

(h) Precautionary area "SE". A circular area of 1,250 yards radius centered at latitude 47°55'25" N., longitude 122°29'29" W.;

(i) Precautionary area "SG". A circular area of 1,250 yards radius centered at latitude 47°45'55" N., longitude 122°26'11" W.;

(j) Precautionary area "SH". A circular area of 1,250 yards radius centered at latitude 47°39'42" N., longitude 122°27'48" W.;

(k) Precautionary area "T". A circular area of 1,250 yards radius centered at

latitude 47°34'34" N., longitude 122°27'00" W.;

(l) Precautionary area "TC". A circular area of 1,250 yards radius centered at latitude 47°19'30" N., longitude 122°27'19" W.

19. By revising § 161.188 to read as follows:

§ 161.188 Temporary precautionary areas.

The Commander, Thirteenth Coast Guard District, may amend the description of the TSS in §§ 161.180 through 161.189 to establish temporary precautionary areas to provide for seasonal activities, such as fishing, that affect the safe passage of vessels in the TSS.

(Sec. 2 Pub. L. 95-474, 92 Stat. 1471, (33 U.S.C. 1221 et seq.); 49 CFR 1.46(n)(4))

Dated: July 15, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80-21816 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD-78-041a]

Puget Sound Vessel Traffic Service Area

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On April 12, 1979, the Coast Guard published a notice of proposed rulemaking at 44 FR 21974 concerning tank vessel operations, vessel traffic service (VTS) boundaries, and vessel traffic service regulations in Puget Sound. The Coast Guard has decided to split the original docket into three separate dockets. 1. Tank Vessel Operations—Puget Sound, CGD 78-041, published in this issue of the **Federal Register**, (to conduct further studies concerning tank vessel operations); 2. Puget Sound VTS Boundary, CGD 78-041a, (to propose a VTS boundary which coincides with the line (COLREGS Demarcation Line) which delineates the area of applicability of the 1972 International Regulations for Preventing Collisions at Sea (COLREGS) and the Navigation Rules for Harbors, Rivers and Inland Waters (Inland Rules)); and 3. Puget Sound VTS Regulations, CGD 78-041b, published in this issue of the **Federal Register** (to publish as a final rule the remainder of the vessel traffic service regulations). This section is being taken so that adequate study and attention may be given to the tank vessel operations portion of the docket without further delaying the amendments to the Puget Sound VTS regulations. In this supplemental notice (CGD 78-041a), the Coast Guard proposes to adopt the COLREGS Demarcation Line as the western and northern boundary of the Puget Sound VTS. This action will consolidate boundary lines and thus will reduce confusion to the mariner.

DATE: Comments should be received on or before October 20, 1980.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/24), (CGD 78-041a), U.S. Coast Guard, Washington, D.C. 20593. Between the hours of 7 a.m. and 5 p.m., Monday through Thursday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/24), Room 2419, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel W. Ziegfeld, Office of Marine Environment and Systems (G-WWM/11), Room 1104, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-1934. Normal office hours are 7 a.m. to 5 p.m. Monday through Thursday.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 78-041a), give the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will be benefical.

Drafting Information

The principal persons involved in drafting this proposal are Commander John L. Patterson, Project Manager, Office of Marine Environment and Systems, and Lieutenant Commander Jack Orchard, Project Counsel, Office of the Chief Council.

Discussion of the Proposal

When the regulation defining the Puget Sound VTS Area (46 CFR § 161.180) were promulgated in 1974, the boundary was described by reference to the "boundary line of inland waters described in § 82.120 of this chapter." However, in 1977, the lines which delineate the areas of applicability of the 1972 International Regulations for Preventing Collisions at Sea and the Navigation Rules for Habors, Rivers, and Inland Waters were revised with the line in Puget Sound being moved eastward. This line is commonly referred to as the COLREGS Demarcation Line. Furthermore, the CFR sections were rearranged so that § 82.120 no longer refers to the waters of Puget Sound. For this reason, the notice of proposed rulemaking concerning tank vessels operations in Puget Sound included a proposal to amend § 161.180 by establishing an entirely new VTS boundary which was different from the COLREGS Demarcation Line described in Part 82.

Subsequent to the publication of that proposal, an agreement was reached with Canada to establish a Cooperative Vessel Traffic Management Service (VTMS) in the Strait of Juan de Fuca and in Haro Strait. This Cooperative NTMS will be jointly operated by the United States and Canada. In order to avoid overlapping jurisdiction and possible confusion between the Puget Sound VTS and the Cooperative VTMS, a new boundary is being proposed for the Puget Sound VTS. The impact of this change is to exclude from the April 12, 1979 proposed Puget Sound VTS Area, and to include within the Cooperative VTMS Area, the following: 1. The waters bounded by lines drawn from Angeles Point to a point at latitude 48°17'N, longitude 123°14'50" W; thence to Hein Bank Lighted Bell Buoy; thence to New Dungeness Light; thence along the shoreline to Angeles Point; and 2. All the the U.S. waters in Haro Strait.

This proposal deals only with VTS boundaries and applies only to traffic management, not to tank vessel operating requirements. The intent of this action is to avoid confusion by providing a VTS boundary which coincides with the already existing COLREGS Demarcation Line. Any Tank Vessel Operations regulations which may be promulgated will be applicable in those portions of the waters of the United States which are described in Coast Guard Docket 78-041.

This regulation has been reviewed under the Department of Transporation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). A Draft Evaluation has not been prepared since the expected impact of this rule is so minimal that an evaluation is not necessary. This determination is based upon a finding that this amendment imposes no economic or other burdens upon the public or the government. Complete VTS coverage will be provided throughout the region. This action only results in the establishment of a convenient boundary between two VTS systems.

The public docket contains an Environmental Assessment and a Finding of No Significant Environment Impact concerning these rules.

In considering of the foregoing, the Coast Guard proposes to amend Part 161 of Title 33 of the Code of Federal Reguations as follows:

1. By revising § 161.180 to read as follows:

§ 161.180 VTS Area.

The VTS Area consists of the navigable waters of the United States

which are inside of a line drawn from New Dungeness Light northerly to Puget Sound Traffic Entrance Lighted Buoy "S"; thence to Rosario Strait Traffic Lane Entrance Lighted Buoy "R"; thence to Hein Bank Lighted Bell Buoy; thence to Cattle Point Light, on San Juan Island; thence along the shoreline to Lime Kiln Light; thence to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Shipjack Island Light; thence to Sucia Island Daybeacon 1; thence along the shoreline of Sucia Island to a point at latitude 48°46.1' N, longitude 122°53.3' W; thence to Clements Reef Buoy "2"; thence to Alden Bank Lighted Gong Buoy "A"; thence northerly to the westernmost tip of Birch Point at latitude 48°56.6' N., longitude 122°49.2' W.

Note.—The line described above coincides with the COLREGS Demarcation Lines described in §§ 82.1385 and 82.1390.

(Pub. L. 95-474, 92 Stat. 1471, (33 U.S.C. 1221 et. seq.); 49 CFR 1.46(n)(4)).

Dated: July 15, 1980.

W.E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and System.

[FR Doc. 80-21817 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 161

[CGD 78-041]

Tank Vessel Operations—Puget Sound

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On April 12, 1979, The Coast Guard published a notice of proposed rulemaking at 44 FR 21974 concerning tank vessel operations, vessel traffic service (VTS) boundaries, and vessel traffic service regulations in Puget Sound. The Coast Guard has decided to split the original docket into three separate dockets: 1. Tank Vessel Operations—Puget Sound, CGD 78-041 (to conduct further studies concerning tank vessel operations); 2. Puget Sound VTS Boundary, CGD 78-041a, published in this issue of the **Federal Register** (to propose a VTS boundary which coincides with the line (COLREGS Demarcation Line) which delineates the area of applicability of the 1972 International Regulations for Preventing Collisions at Sea (COLREGS) and the Navigation Rules for Harbors, Rivers, and Inland Waters (Inland Rules); and 3. Puget Sound VTS regulations, CGD 78-041b. published in this issue of the **Federal Register**, (to publish as a final rule the remainder of the vessel traffic service regulations). This action is being taken so that adequate study and attention may be given to the tank vessel operations portion of the docket without further delaying the amendments to the Puget Sound VTS regulations. This proposal (CGD 78-041) discusses the Coast Guard's intentions concerning tank vessel operations.

DATES: Comments must be received on or before October 20, 1980.

ADDRESSES: Comments may be mailed to Commandant (G-CMC/24), (CGD 78-041), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-1477, between the hours of 7 a.m., and 5 p.m., Monday through Thursday.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel W. Ziegfeld, Office of Marine Environment and Systems (G-WWM/11), Room 1104, U.S. Coast Guard Headquarters, 2100 Second St., SW, Washington, D.C. 20593 (202) 426-1934. Normal office hours are 7 a.m. to 5 p.m., Monday through Thursday.

Drafting Information

The principal persons involved in drafting this proposal are Commander John L. Patterson, Project Manager, Office of Marine Environment and Systems, and Lieutenant Commander Jack Orchard, Project Counsel, Office of the Chief Counsel.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person making them, identify this notice (CGD 78-041), and give the reasons for the comments. If an acknowledgment is desired, a stamped, addressed postcard or envelope should be enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

As discussed in more detail below, studies are planned before further action will be taken regarding this rulemaking. In addition, extensive comments were received regarding this subject, both through testimony at public hearings held in Washington State, and written comments in response to both the advance notice of proposed rulemaking (March 27, 1978, 43 FR 12839) and the notice of proposed rulemaking (April 12, 1979, 44 FR 21974). For these reasons no public hearings are planned at this time. However, public hearings may be held if, as a result of comments received in response to this notice, it appears that oral presentations at this stage of the proceedings will contribute substantially towards resolving the issues.

Discussion of Proposed Rule

The proposed regulations regarding tank vessel operations in Puget Sound, which were published on April 12, 1979, received substantial public response both through written comments and public hearing testimony. All of the one hundred thirty-two written comments and all of the 73 oral presentations made in the State of Washington at Seattle on June 11 and 12, 1979, at Mount Vernon on June 13, 1979, and at Port Angeles on June 14, 1979, addressed the proposed tank vessel operations regulations. The majority of these comments were focused upon the issues of tanker size limitation and tug escort/assistance requirements and the area to which these rules should apply.

The volume and the content of the comments indicate that additional competent and reliable information must be generated and analyzed before final rules are promulgated. In order to develop empirical data concerning "on scene" conditions, (i.e., the ability of tugs to control tankers in the waters in question and the safety of tugs during these maneuvers), the Coast Guard intends to conduct tanker/tug tests in Puget Sound before a final tug assistance/escort requirement is imposed. The Coast Guard also intends to conduct a risk analysis to determine in what manner and to what extent tanker size relates to tanker spill risk.

In a related rulemaking, (CGD 79-131) the United States and Canada are establishing a Cooperative Vessel Traffic Management Service (VTMS) in Haro Strait and the Strait of Juan de Fuca. The Coast Guard is proposing that the eastern boundary of the Cooperative VTMS coincide with the COLREGS Demarcation Lines in the Strait of Juan de Fuca, Haro Strait and the Strait of Georgia. A notice of proposed rulemaking to move the Puget Sound VTS boundary so that it also coincides with the COLREGS Demarcation Line is published elsewhere in this issue of the **Federal Register** (CGD 78-041a). This common boundary provides continuous VTS coverage and avoids overlapping jurisdiction and confusion regarding the vessel traffic systems.

The tank vessel operating rules were proposed to be applicable in the same area as the Puget Sound VTS regulations. Since the VTS Area is being modified to complement the Cooperative VTMS, a reappraisal of the boundary for the tank vessel operating rules is also

necessary. At the time the tank vessel operating rules were proposed, the Puget Sound VTS was the only mandatory vessel traffic service in the area. It was logical to have a single area where both the tank vessels operating rules and the Puget Sound VTS regulations would apply. Since, under the proposed Cooperative VTMS, vessels will be subject to regulation for the entire area of the Strait of Juan de Fuca, this rationale is less valid. However, it is still appropriate to propose that the tank vessel operating rules apply to the area covered by the various regulatory provisions which have existed since 1975. Therefore, a separate area coincident with the area covered under the Interim Navigation Rule and the prior Washington State law, is proposed to replace the area described in paragraph (a) of § 161.143 of the notice of proposed rulemaking which appeared in the April 12, 1979 issue of the **Federal Register** at 44 FR 21974. This action is consistent with the President's finding that the proposal of the Northern Tier Pipeline Company for construction and operation of a system to transport crude oil via pipeline from Port Angeles is in the national interest.

The interim navigation rule contained in Appendix A to Subpart B of Part 161 of Title 33, Code of Federal Regulations, which maintains the de facto level of environmental protection, remains in effect.

Upon their completion, the proposed studies will be available for review and comment by the public. If, as a result of these studies, substantial changes to the NPRM of April 12, 1979, are contemplated, a supplemental NPRM will be published and further public comment will be solicited.

In consideration of the foregoing, the proposed amendment to Part 161 of Title 33 of the Code of Federal Regulations, published on April 12, 1979 at 44 FR 21974, is amended as follows:

1. By amending the proposed paragraph (a) of § 161.143 to read as follows:

§ 161.143 Navigation requirements.

(a) Tank vessels larger than 125,000 deadweight tons bound for a port or place in the United States may not operate in waters of the United States lying east of a straight line extending from Discovery Island Light to New Dungeness Light and to all points in the Puget Sound area north and south of these lights.

(Pub. L. 95-474, 92 Stat. 1471, (33 U.S.C. 1221 et seq.); 49 CFR 1.46(n)(4))

Dated: July 15, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80-21818 Filed 7-18-80; 8:45 am]

BILLING CODE 4910-14-M

federal register

Monday
July 21, 1980

Part VI

Department of the Interior

Fish and Wildlife Service

Potential Proposals To Amend the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

DEPARTMENT OF THE INTERIOR

50 CFR Part 23

Potential Proposals To Amend the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of potential United States proposals.

SUMMARY: The United States, as a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, may propose changes in the list of animal and plant species included in Appendices I and II for protection by this treaty. Under the terms of the Convention, the Party nations may consider such proposals either at their biennial meetings or through a postal procedure between the meetings.

In preparation for the third meeting of the Parties, which will be held in February 1981, at New Delhi, India, the Service is developing proposals to submit for the United States. This notice describes suggestions concerning proposals that were received in response to an earlier request. It indicates the preliminary views of the Service on potential proposals and requests information and comment on the species that have been chosen for further consideration.

DATES: All information and comments received by August 20, 1980, will be considered. The Service plans to publish a notice of decisions on proposals to be made by the United States on or about August 22, 1980. The Secretariat for the Convention must receive proposals for consideration at New Delhi no later than September 5, 1980.

ADDRESS: Please send correspondence this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 536, 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249) is a treaty designed to control the import and export of certain animal and plant species, in order to prevent their over-exploitation through such trade. The species to be so regulated are listed in three appendices to the Convention. Appendices I and II are the subject of this notice.

Appendix I is to include "all species threatened with extinotion which are or may become subject to trade" (Article II.1 of the Convention). Criteria adopted by the Party nations in 1976 at Bern, Switzerland (the "Bern criteria") clarified the circumstances under which species were to be listed in Appendix I. To qualify for Appendix I, a species must be currently threatened with extinction and it should be listed if it is or might be traded for any purpose, scientific or otherwise. Where most of the species in a higher taxon are threatened with extinction, and where identification of individual species is difficult, all species in the higher taxon should be listed in Appendix I. Species included because of similarity in appearance to threatened ones are to be annotated as such in the list.

Appendix II is to include species fitting two categories: those that although not now threatened with extinction may become so unless trade in them is strictly controlled, and those that must be subject to regulation in order that other currently or potentially threatened species may be brought under effective control (Article II.2 of the Convention). The Bern criteria stated that to qualify for inclusion in Appendix II, a species need not currently be threatened with extinction, but there should be some indication that it might become so. The criteria provide for listing all of the species in a higher taxon in Appendix II if some are threatened and if identification of individual species is difficult. Further, species meeting the biological criteria should be listed if they presently are subject to trade or are likely to become subject to trade in such a volume as to constitute a potential threat to the survival of the species.

The Parties aslo adopted criteria at Bern for the deletion of species from Appendix I or II, and for the transfer of species from Appendix I to Appendix II. These criteria require positive scientific evidence that the species can withstand the exploitation resulting from the removal of protection afforded by the present listing. Further, such evidence should include at least a well-documented population survey, an indication of the population trend of the species, showing recovery sufficient to justify deletion or transfer, and an analysis of the potential for commercial trade in the species.

As a Party, the United States is committed to adhering to the terms of the Convention, including the fundamental principles for listing species in Appendices I and II. The Service, in carrying out the responsibilities of Scientific Authority and Management Authority for the United States under the Convention, also is committed to adhering to the Bern criteria (or any future modifications of the criteria that might be adopted by the Conference of the Parties). Accordingly, the Service is reviewing potential amendments to the appendices in terms of the Article II requirements and the Bern criteria.

The Service published a notice in the **Federal Register** on April 4, 1980 (45 FR 23370) requesting information on animal and plant species for use in determining if the United States should propose any amendments for consideration by the Parties at their meeting in February 1981. The Convention requires that any proposals must be received by the Secretariat for the Convention at least 150 days before the meeting (September 5, 1980).

In response to the April 4 notice, the Service received information on a number of species, in addition to information already available to the Service from other sources. The accompanying table lists all species under consideration. For each species, it also shows the present status under the Convention, the suggested proposal to amend that status, the source of the suggestion, the reasons for the suggestion, remarks by the Service, and the proposed decision by the Service.

Development of proposals for submission by the United States before September 5, 1980, will depend on the availability of sufficient information to meet the relevant criteria, and on the feasibility of assembling that information in the proper format for the various species involved. Proposals not developed in time for the coming meeting may be submitted for consideration throught the postal procedure under Article XV of the Convention. The Service requests information and comments on the suggested proposals listed in the table, particularly on those that the Service indicates it is proposing to submit for consideration by the Parties. Final decisions on proposals to be submitted by the United States will be published in the **Federal Register** on or about August 22, 1980.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority.

Dated: July 15, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

BILLING CODE 4310-55-M

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Order CHIROPTERA						
Family Pteropidae						
Pteropus mariannus (Marianas fruit bat)	Not listed	II	Service	Recent survey indicates vulnerable status; heavy import into Guam for food	Trade is apparently potential threat to survival of species	Add to II
Pteropus tokudae (Lesser Marianas fruit bat)	Not listed	II	Service	Same as above.	Same as above	Add to II
Order PRIMATES						
Family Callithricidae						
Callithrix argentata leucippe (golden-white bare-ear marmoset)	II	I	Russell A. Mittermeier, IUCN/SSC Primate Specialist Group	Subspecies has very small range; vulnerable status; any trade likely to be detrimental	Appears to meet criteria	Move to I
Callithrix penicillata kuhli (black-eared marmoset)	II	I	Same as above	Same as above	Validity of taxon uncertain	Awaits further information
Family Cebidae						
Callicebus personatus (masked titi)	II	I	Same as above	Vulnerable status	Appears to meet criteria	Move to I
Aotus trivirgatus (night monkey)	II	I for Northern Colombian population.	Same as above	Although apparently common in Amazonia it is vulnerable or even endangered in other parts of range	Conflicting data on status	Awaits further information

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Chiropotes satanas (black saki)	II	I for C.s. satanas because probably endangered, C.s. chiropotes because of similarity in appearance	Same as above	C.s. satanas occurs in relatively small area, habitat destruction, hunted for food, more selective in habitat choice than most species	Same as above	Move to I
Alouatta fusca (brown howler)	II	I	Same as above	Included in Brazilian endangered species list, probably vulnerable	Appear to meet criteria	Move to I
Alouatta pigra (=villosa) (mantled howler)	II	I	Same as above	Listed as Threatened under U.S. Endangered Species Act,	Small range, habitat destruction	Move to I
Lagothrix spp. (woolly monkeys)	II	I	Same as above	L. spp. are vulnerable or endangered, restricted in habitat, hunted for food, rapidly disappearing, subjected to trade	Appear to meet criteria	Move to I
Ateles spp. (spider monkeys)	II (except two subspp. of A. geoffroyi on I)	I	Same as above	All species vulnerable, some with small range, heavily hunted for food, some affected by habitat destruction	Same as above	Move to I
Family Cercopithecidae						
Colobus badius preussi (Preuss' red colobus)	II	I	T. Struhsaker, NY Zoological Society	Endangered, very restricted range, hunted for food, destruction of mature forest habitat	Distribution now much reduced, total population probably under 8000 by 1977	Move to I
Colobus satanus (black colobus)	II	I	Same as above	Vulnerable, destruction of mature rain-forest habitat, now found only in protected or inaccesible areas, hunted for food (and formerly for skins)	Status such that any trade may be detrimental	Move to I

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Papio (=Mandrillus) leucophaeus (drill)	II	I	same as above	Endangered, restricted distribution, rapid habitat destruction, excessively hunted for food	Any trade may be detrimental	Move to I
Pan troglodytes (chimpanzee)	I	II	Julien Bronson, Bronson Tropical Bird Aviaries	Information from Game Departments of seven African nations gives a total of 63,550;"imports needed for exhibition"	Information insufficient to show that move to II is warranted	Retain on I
Order CETACEA						
Family Balaenopteridae						
Balaenoptera borealis (sei whale) stocks as follows: S.Hemisphere, N. Pacific, Nova Scotia	I & II	I for indicated stocks	National Marine Fisheries Service	For consistency with protection stocks of International Convention for Regulation of Whaling (IWC)	Parties have previously agreed on need to support IWC	Move indicated stocks to I
Balaenoptera physalus (fin whale) stocks as follows: S. Hemisphere, N. Pacific, Nova Scotia, W. Norway-Faroe Island Stock	I & II	I for indicated stocks	Same as above	Same as above	Same as above	Move indicated stocks to I
Family Physeteridae						
Physeter macrocephalus (sperm whale) stocks as follows: S. Hemisphere (except 30 W to 100 W), N. Pacific (except males in W. Division), Nova Scotia	II	I for indicated stocks	Same as above	Same as above	Same as above	Move indicated stocks to I

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Order CARNIVORA						
Family Canidae						
Canis lupus (gray wolf)	II	Delete Alaskan population, now on II for control purposes	Ronald O. Skoog, Alaska Department of Fish and Game	Pelts must be permanently marked under State law, Convention controls unnecessary	Convention permits may help control trade in wolves from other populations	Retain in II for control of trade in other populations on I and II
Family Ursidae						
Ursus arctos (brown bear)	II	Delete Alaskan population, now on II for control purposes	Same as above	Same as above	As above, for other brown bear populations	Same as above
Family Mustelidae						
Lutra canadensis (river otter)	II	Delete from II	Ronald O. Skoog, Alaska Department of Fish and Game; Leon Kirkland, Georgia Game and Fish Division; C.R. Burrows, Minnesota Division of Fish and Wildlife; Jack Berryman, International Association of Fish and Wildlife Agencies	Species not in danger, subject to adquate State management, Federal export control unjustified, harvest is not major factor affecting populations	Data appear insufficient to satisfy Bern criteria for deletion, retention on II needed for control purposes aside from any need to protect this species from over-exploitation	Not yet determined, as requested by International Convention Advisory Commission

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Family Felidae						
Lynx canadensis (lynx)	II	Delete from II	Ronald O. Skoog, Alaska Department of Fish and Game; C.R. Burrows, Minnesota Division of Fish and Wildlife; Jack Berryman, International Association of Fish and Wildlife Agencies	Same as above	Data appear insufficient to satisfy Bern criteria for deletion, populations could be vulnerable to over-exploitation at low point in cycle of abundance	Not yet determined, as requested by International Convention Advisory Commission
Lynx rufus (bobcat)	II	Delete from II	Leon Kirkland, Georgia Game & Fish Division; C.R. Burrows, Minnesota Division of Fish and Wildlife; William A. Bailey, Jr., Nebraska Game and Parks Commission; Jack Berryman, International Association of Fish and Wildlife Agencies	Same as above	Data appear insufficient to satisfy Bern criteria	Not yet determined, as requested by International Convention Advisory Commission
Order PINNIPEDIA						
Family Otariidae						
Callorhinus ursinus (northern fur seal)	Not listed	II	Secretariat for the Convention	The Management Authority for Federal Republic of Germany reports difficulty in distinguishing pelts from those of Arctocephalus spp.	Marking of all C. ursinus pelts by only tanner should eliminate identification problems	Do not add to II

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Family Phocidae						
Cystophora cristata (hooded seal)	Not listed	II	Brian D. Davies, International Fund for Animal Welfare	Extensive exploitation for skins, population status not adequately known, faulty management	National Marine Fisheries Service has advised against adding to II	Not yet determined, as requested by International Convention Advisory Commission
Pagophilus groenlandicus (harp seal)	Not listed	II	Same as above	Population apparently declining, susceptible to over-exploitation, faulty management	Same as above	Not yet determined, as requested by International Convention Advisory Commission
Order FALCONIFORMES						
Family Falconidae						
Falco peregrinus tundrius (tundra peregrine)	I	II	Roger Thacker North American Falconers Assoc.	"Strong population level"; small international trade within biologically acceptable limits	Move to II would create enforcement problems	Retain in I, possibly for control of trade in other subspp.
Falco peregrinus pealei (Peales peregrine)	I for control only	II	Same as above	"Strong stable population; international use small and biologically acceptable"	Same as above	Retain in I to control trade in other subspp.
Falco rusticolus (gyrfalcon) North American population only	I	II	Same as above	Trade small compared to population base; populations expanding in Greenland, Alaska	N. American populations not threatened	Awaits further information

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Order GRUIFORMES						
Family Gruidae						
Grus antigone sharpii (eastern saurus crane)	Not listed	I	Roger F. Pasquier, International Council for Bird Preservation	Recent survey indicates vulnerable status in Laos, Cambodia, and Vietnam; extirpated from Burma, Thailand, Malaysia, and Philippines	Results of survey not yet available	Awaits further information
Order COLUMBIFORMES						
Family Columbidae						
Nesoenas mayeri (Mauritius pink pigeon)	Not listed	I	Warren B. King, International Council for Bird Preservation	Population on Mauritius less than twenty-four	Any trade would be detrimental	Add to I
Order PSITTACIFORMES						
Family Psittacidae						
A. 1. Ara caninde (caninde macaw)	Not listed	I	Same as above	Very rare within small and diminishing range; traded from Bolivia	Same as above	Add to I
2. Ara rubrogenys (red-fronted macaw)	Not listed	I	Same as above	Exported from Bolivia; local, very restricted range	Same as above	Add to I
3. Amazona arausiaca (red-necked amazon)	Not listed	I	Same as above	Less than 350 birds; population declines by uncontrolled hunt	Same as above	Add to I
4. Amazona brasiliensis (red-tailed amazon)	Not listed	I	Same as above	Habitat destroyed; not seen in recent decades; not yet extinct	Same as above	Add to I
5. Amazona barbadensis (yellow-shouldered amazon)	Not listed	I	Same as above	3-400 birds remain; habitat disturbance; smuggling continuing	Same as above	Add to I
6. Rhynchopsitta terrisi (maroon-fronted parrot)	Not listed	I	Same as above	Very restricted range; habitat disturbed by lumbering, fires	Same as above	Add to I

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
B. 1. Aratinga erythrogenys (red-masked conure)	Not listed	II	Same as above	Increasing export (Ecuador);small distribution; habitat loss	Trade is potential threat to survival of species	Add to II
2. Aratinga euops (Cuban conure)	Not listed	II	Same as above	Limited range(Cuba);trade;habitat loss-forest clearing	Same as above	Add to II
3. Aratinga auricapilla (golden-capped conure)	Not listed	II	Same as above	Smuggled(from Brazil),massive deforestation has caused large declines	Same as above	Add to II
4. Leptosittaca branickii (golden-plumed conure)	Not listed	II	Same as above	Very scarce and local montane parakeet;substantial declines	Same as above	Add to II
5. Ognorhynchus icterotis (yellow-eared conure)	Not listed	II	Same as above	Very rare,massive deforestation has caused major declines	Same as above	Add to II
6. Cyanoliseus patagonus patagonus (Patagonian conure)	Not listed	II	Same as above	Populations small;persecuted by clearing for agriculture	Same as above	Add to II
7. Cyanoliseus patagonus andinus (Patagonian conure)	Not listed	II	Same as above	Historically rare;persecuted	Same as above	Add to II
8. Pyrrhura perlata (pearly conure)	Not listed	II	Same as above	Uncommon;small distribution;impacted by colonization	Same as above	Add to II
9. Pyrrhura rhodogaster (crimson-bellied conure)	Not listed	II	Same as above	Restricted range;habitat loss to Trans-Amazon highway	Same as above	Add to II
10. Pyrrhura leucotis leucotis (white-eared conure)	Not listed	II	Same as above	Greatly reduced in range and numbers by forest destruction	Same as above	Add to II
11. Pyrrhura albipectus (white-necked conure)	Not listed	II	Same as above	Minute range;rediscovered in 1980	Same as above	Add to II
12. Pyrrhura calliptera (brown-breasted conure)	Not listed	II	Same as above	Widespread range reduction;extirpated from large part of range-deforestation	Same as above	Add to II
13. Pyrrhura rhodocephala (rose-crowned conure)	Not listed	II	Same as above	Massive forest destruction; land conversion to coffee	Same as above	Add to II

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
14. Bolborhynchus ferrugineifrons (rufous-fronted parakeet)	Not listed	II	Same as above	Very rare,not found since '50's	Same as above	Add to II
15. Brotogeris pyrrhopterus (grey-cheeked parakeet)	Not listed	II	Same as above	Small range,export market	Same as above	Add to II
16. Touit melanonota (brown-backed parrotlet)	Not listed	II	Same as above	Extensive habitat destruction	Same as above	Add to II
17. Touit surda (golden-tailed parrotlet)	Not listed	II	Same as above	Habitat loss,population decline	Same as above	Add to II
18. Touit stictoptera (spot-winged parrotlet)	Not listed	II	Same as above	Very local,forest destruction	Same as above	Add to II
19. Hapalopsittaca amazonina (rusty-faced parrot)	Not listed	II	Same as above	Rare,localized in small groups	Same as above	Add to II
20. Amazona viridigenalis (green-cheeked amazon)	Not listed	II	Same as above	Serious decline over range,trade	Same as above	Add to II
21. Amazona tucumana (Tucuman amazon)	Not listed	II	Same as above	Highly localized, look-alike to A. pretrei	Same as above	Add to II
22. Amazona ochrocephala oratrix (yellow-crowned amazon)	Not listed	II	Same as above	Habitat loss,U.S. pet market	Same as above	Add to II
23. Amazona ochrocephala tresmariae (yellow-crowned amazon)	Not listed	II	Same as above	Habitat loss,U.S. pet market	Same as above	Add to II
24. Amazona ventralis (Hispaniolan amazon)	Not listed	II	Same as above	Drastic population declines	Same as above	Add to II
25. Amazona collaria (yellow-billed amazon)	Not listed	II	Same as above	Population in hundreds,habitat	Same as above	Add to II
26. Amazona agilis (black-billed amazon)	Not listed	II	Same as above	Trade,numbers in hundreds	Same as above	Add to II
27. Triclaria malachitacea (purple-bellied parrot)	Not listed	II	Same as above	Trade,habitat loss-Brazil coast	Same as above	Add to II

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
C. Ara spp. (those not previously mentioned are listed below for reference)	Not listed	II for genus	Same as above	May become threatened unless trade is controlled	Trade is potential threat to survival of certain species	Awaits further information
1. A. ambigua (2 subspp.) (Buffon's macaw)	III Costa Rica			Precipitous declines, small range		
2. A. ararauna (blue and yellow macaw)	Not listed			Extirpated at south of range		
3. A. auricollis (yellow-collared macaw)	Not listed			Imports in thousands		
4. A. couloni (blue-headed macaw)	Not listed			Restricted distribution		
5. A. macao (scarlet macaw)	III Costa Rica			Extirpated from most of range		
6. A. manilata (red-bellied macaw)	Not listed			Imports in hundreds, wide range		
7. A. maracana (Illiger's macaw)	Not listed			Imports in hundreds, wide range		
8. A. militaris (3 subspp.) (military macaw)	Not listed			Locally distributed, declining		
9. A. nobilis (3 subspp.) (red-shouldered macaw)	Not listed			Imports in hundreds, wide range		
10. A. severa (2 subspp.) (chestnut-fronted macaw)	Not listed			Imports in thousands, widespread		

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
D. Anodorhynchus spp. [(includes A. hyacinthinus (hyacinth macaw)in addition to others already in I)]	Not listed	II	Same as above	May become threatened unless trade is controlled	Same as above	Same as above
E. 1. Aratinga jandaya (Jandaya conure)	Not listed	II	TRAFFIC(USA); Defenders of Wildlife; Society for Animal Protective Legislation	Imports: hundreds,common	More data desirable	Awaits further information
2. Aratinga cactorum (cactus;caatinga conure)	Not listed	II		Imports: under 100,common	Same as above	Same as above
3. Pyrrhura hoematotis (red-eared conure)	Not listed	II		Common(Forshaw,1973)	Same as above	Same as above
4. Pyrrhura viridicata	Not listed	II	Same as above	Very restricted distribution	Same as above	Same as above
5. Pyrrhura egregia (fiery-shouldered conure)	Not listed	II	Same as above	No information provided	Same as above	Same as above
6. Pyrrhura leucotis	Not listed	II	Same as above	Isolated populations, 5 subspp.	Same as above	Same as above
7. Pyrrhura hoffmanni	Not listed	II	Same as above	2 subspp.	Same as above	Same as above
8. Forpus xanthops	Not listed	II	Same as above	Very restricted known range	Same as above	Same as above
9. Nannopsittaca panychlora (Tepui parrotlet)	Not listed	II	Same as above	3 isolated populations	Same as above	Same as above
10. Gypopsitta vulturina (vulturine parrot)	Not listed	II	Same as above	Some habitat loss,fairly common	Same as above	Same as above
11. Hapalopsittaca melanotis (black-winged parrot)	Not listed	II	Same as above	Little-known,2 restricted subspp.	Same as above	Same as above
12. Amazona xantholora (yellow-lored amazon)	Not listed	II	Same as above	Restricted range	Same as above	Same as above

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
13. Amazona pretrei (red-spectacled amazon)	Not listed	II	Same as above	Vulnerable, habitat loss	Same as above	Same as above
14. Amazona finschi (lilac-crowned amazon)	Not listed	II	Same as above	2 adjacent subspecies	Same as above	Same as above
15. Amazona ochrocephala auropallia (Mexican yellow-crowned amazon)	Not listed	II	Same as above	Imports in hundreds, pet trade	Same as above	Same as above
F. 1. all remaining species of PSITTACIFORMES, [=271 species, (Forshaw, 1973)]	Not listed	II, for purposes of control only	Same as above	Many species in international trade; trade as fledglings makes species identification difficult for experts	Many species known to be in trade, but volume largely unknown	Same as above
Order CROCODYLIA						
Crocodylus acutus (American crocodile)	II except USA population on I	I (whole species)	Service	Entire species listed as Endangered under US Endangered Species Act, population depleted for hide trade	Trade has been a major factor in decline	Add to I
Order TESTUDINATA						
Cuora trifasciata (Asiatic box turtle)	Not listed	I	Service	Traded for medicinal use in Asia. Greatly increased prices may suggest population decline.	Population data needed.	Awaits further information
Dermatemys mawii (Central American river turtle)	Not listed	I	Service	Extensively traded for food between Mexico, Belize, and Guatemala.	May require ban on trade until better management established	Add to I
Graptemys flavimaculata (yellow-blotched sawback)	Not listed	II	Service	Restricted distribution, threatened by pollution, striking appearance makes it desirable for collectors considered threatened by Mississippi	Trade may add to threat to species	Add to II

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Platysternon megacephalum (Chinese big-headed turtle)	Not listed	I	Service	Traded for medicinal use in Asia. Greatly increased prices may suggest population decline.	Population data needed.	Awaits further information
Pseudemys (=Chrysemys) alabamensis (Alabama red-bellied turtle)	Not listed	I	Service	Restricted distribution, threatened by pollution and indiscriminate shooting, some taken for food, considered threatened by State of Alabama.	Any trade may be detrimental	Add to I
Order SQUAMATA						
Brachylophus fasciatus (Fiji banded iguana)	Not listed	I	Service	Listed as Endangered under US Endangered Species Act, collected for pet trade, subject to habitat loss and introduced predators.	Continued commercial trade could be detrimental.	Add to I
Brachylophus (unnamed new species) (Fiji crested iguana)	Not listed	I	Service	Listed as Endangered under US Endangered Species Act, restricted to about 30 ha of habitat on a small island	Any trade could be detrimental	Add to I
Cyclura carinata bartschi (Bartsch's rock iguana)	II	I	Service	Restricted to small island, population poorly known	Trade could be detrimental. Few data available	Awaits further information
Cyclura collei (Jamaican iguana)	II	I	Service	Recently rediscovered, previously considered extinct, very restricted distribution, threatened by habitat destruction and hunting.	Any trade could be detrimental	Move to I
Cyclura cychlura cychlura (Andros rock iguana)	II	I	Service	Restricted and diminishing distribution in Bahamas, threatened by habitat destruction, hunting, and introduced predators	Any trade could be detrimental	Move to I
C. cychlura inornata (Allen's Cay rock iguana)	II	I	Service	Restricted and diminishing distribution in Bahamas, threatened by habitat destruction, hunting, and introduced predators	Any trade could be detrimental	Move to I

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Cyclura pinguis (Anegada rock iguana)	II	I	Service	Listed as Endangered under US Endangered Species Act, limited distribution, potential habitat destruction, threatened by introduced predators, population may be limited to 100 animals.	Any trade could be detrimental	Move to I
Drymarchon corais couperi (Eastern indigo snake)	Not listed	II	Service	Listed as Threatened under US Endangered Species Act, population reduced over range by habitat loss, indiscriminate killing, and collection for pet trade	Unregulated trade potentially detrimental	Add to II
Phrynosoma spp. (horned lizards)	Not listed	II	Service	Collected for pet trade, protected or regulated by many States of US.	Unregulated trade potentially detrimental, little information on population status	Awaits further information
Sauromalus varius (San Esteban Island chuckwalla)	Not listed	I	Service	Listed as Endangered under US Endangered Species Act, has been depleted for pet trade, limited distribution	Any further trade could be detrimental	Add to II
Uma inornata (Coachella Valley fringe-toed lizard)	Not listed	II	Service	Extensive habitat loss and degradation, collected for pets, proposed as Threatened under US US Endangered Species Act	Trade is a potential threat	Add to II
Varanus grayi (Gray's monitor lizard)	II	I	Service	Recently rediscovered, previously thought extinct, rare within range, primarily threats habitat loss and hunting.	Trade could be detrimental	Move to I
PLANTS						
Family Araliaceae						
Panax ginseng (Chinese ginseng)	Not listed	II for purposes of control only	Service	Similarity of roots to American ginseng creats enforcement difficulty	Both Panax species are extensively traded	Add to II

Species	Present listing	Suggested listing	Source of suggestion	Reasons for Suggestion	Remarks by FWS	Proposed FWS decision
Family Droseraceae						
Drosera regia (sundew)	Not listed	I	TRAFFIC(USA)	Known from only type locality; any further nursery trade threatens remaining population with extinction	Any trade would be detrimental to survival of species	Add to I
Dionaea muscipula (Venus flytrap)	Not listed	II	Natural Resources Defense Council	South Carolina species of "State concern"; intense collecting pressure - 4 million traded annually	Trade is potential threat to survival of species	Add to II
Family Nepenthaceae						
Nepenthes rajah	Not listed	I	TRAFFIC(USA)	Population in thousands; heavy trade threat as largest Asian pitcherplant	Any trade would be detrimental to survival of species	Add to I
Family Orchidaceae						
Odontoglossum uroskinneri	II	I	Michael W. Dix, University de Valle de Guatemala	Endemic to highlands of Guatemala; threatened by collecting and exportation	Any trade could be detrimental to survival of species	Awaits further information
Family Sarraceniaceae						
Darlingtonia californica (California pitcher plant, cobra lily)	Not listed	II	Janet Hohn; Charlene Holzwarth; Anne Kowalishen; NRDC	Few disjunct populations; declining populations; sought after for commercial trade	Trade is potential threat to survival of species	Add to II
Sarracenia alabamensis alabamensis (canebrake pitcher plant)	Not listed	I	Natural Resources Defense Council	Habitat degradation; botanical curiosity in trade; fewer than 500 individuals in six sites	Any trade would be detrimental to survival of species	Add to I
Sarracenia jonesii (mountain sweet pitcher plant)	Not listed	I	Same as above	Few thousand remain; Smithsonian Institution considers it endangered by collecting	Same as above	Add to I
Sarracenia oreophila (green pitcher plant)	Not listed	I	Same as above	Total population of 1270; collecting for carnivorous plant trade; on Federal and State Endangered lists	Same as above	Add to I

[FR Doc. 80-21715 Filed 7-18-80; 8:45 am]
BILLING CODE 4310-55-C

Reader Aids

Federal Register

Vol. 45, No. 141

Monday, July 21, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JULY

44245-44916.....1
44917-45246.....2
45247-45564.....3
45565-45886.....7
45887-46060.....8
46061-46334.....9
46335-46768.....10
46769-47110.....11
47111-47414.....14
47415-47652.....15
47653-47836.....16
47837-48076.....17
48077-48572.....18
48573-48846.....21

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

51.....47111

Proposed Rules:

18.....46328
302.....46771
305.....46771

3 CFR

Administrative Orders:

Presidential Determinations:

No. 80-20 of June 10, 1980.....45567
No. 80-21 of July 1, 1980.....46769

Executive Orders:

5327 (Amended by PLO 5732).....45911
10560 (Revoked by EO 12220).....44245
10685 (Revoked by EO 12220).....44245
10708 (Revoked by EO 12220).....44245
10746 (Revoked by EO 12220).....44245
10799 (Revoked by EO 12220).....44245
10827 (Revoked by EO 12220).....44245
10884 (Revoked by EO 12220).....44245
10893 (Revoked by EO 12220).....44245
10900 (Revoked by EO 12220).....44245
11846 (See Proc. 4768).....45135
11888 (Amended by EO 12222).....45233
12044 (Amended by EO 12221).....44249
12196 (Amended by EO 12223).....45235
12201 (Amended by EO 12225).....45571
12220.....44245
12221.....44249
12222.....45233
12223.....45235
12224.....45243
12225.....45571

Proclamations:

4663 (Amended by Proc. 4770).....45245
4707 (Superseded in part by Proc. 4768).....45135
4768.....45135
4769.....45237
4770.....45245
4771.....45247
4772.....45249
4773.....45565
4774.....45569

4 CFR

417.....48753

Proposed Rules:

2.....44954
3.....44954
4.....44954
5.....44954
6.....44954
7.....44954
8.....44954
9.....44954

5 CFR

213.....48077-48096
353.....46777
410.....48096
752.....46778
831.....46782
890.....48098
2424.....48575
2502.....47112

Proposed Rules:

351.....44304

6 CFR

Proposed Rules:

705.....47052

7 CFR

2.....48575
28.....46782
29.....44292, 47115
68.....45868, 46332
272.....46036
273.....46036, 48099
275.....46784
301.....46784
354.....46785
371.....48099
905.....45251
908...45252, 45573, 46335, 47844
910.....45301, 46785, 48100
911.....44302, 44303, 47653
915.....47653
916.....45252
917.....44917, 47115, 47837
919.....46061
923.....48100
928.....46786
930.....45573, 46061, 48102
945.....45574
946.....47653
947.....46335, 48575
948.....46336
958.....45574
967.....46336
1425.....47837, 48102
1427.....44293

1701.....46787
1944.....47654
2900.....45887
Proposed Rules:
180.....45914
253.....46809
283.....46809
410.....44305
413.....44311
713.....48151
730.....48151
917.....47154
922.....48152
948.....48153
958.....47692
965.....47155, 47846
967.....47693
999.....44960
1007.....47432, 48638
1011.....47432
1030.....47432
1032.....47432
1046.....47432
1049.....47432
1050.....47432
1062.....47432
1064.....47432
1065.....47432
1068.....47432
1071.....47432
1073.....47432
1076.....47432
1079.....47432
1094.....47432
1096.....47432
1097.....45302, 47432, 48154
1098.....47432
1099.....47432
1102.....45302, 47432
1104.....47432
1106.....47432
1108.....45302, 47432, 48154
1120.....47432
1126.....47432
1131.....47432
1132.....47432
1138.....47432
1701.....46811, 47436–47437
2859.....44317

8 CFR

204.....44251
214.....44918
238.....45575
334.....45575

9 CFR

78.....44253
82.....48103
92.....45888
327.....45889
Proposed Rules:
92.....48159
308.....44317
381.....44317, 45915

10 CFR

Ch. I.....45595
Ch. II.....48577
2.....45253, 45890
25.....45256
95.....45256
205.....46787
211.....46752, 47671
212.....46752, 47406, 47622
436.....44558
461.....47388
600.....46044, 46074
Proposed Rules:
20.....45302
50.....45916
210.....44961, 48646
211.....44961, 48646
212.....44961, 46811
378.....46742
430.....46075, 46762, 47396
503.....45303
504.....45303
506.....45303
580.....45098

11 CFR

9033.....45257

12 CFR

Ch. II.....44574
Ch. VII.....47119
204.....46063
207.....44256
225.....45257
226.....46064
229.....46064, 46337
265.....46338
308.....48579
522.....47117
526.....47118
545.....46338, 47118
563.....47118
590.....46339
700.....47120
701.....45576, 47120, 47415
725.....47120
742.....47120
1101.....46793
1204.....44919
Proposed Rules:
Ch. VII.....47694
204.....44962, 45303, 47846
225.....44963
526.....46431
545.....46431
563.....46431
611.....45595
612.....45917
701.....47846
761.....47846
1204.....45303

13 CFR

101.....47122
121.....46795, 47415
305.....44257, 46065
309.....44257, 46065
315.....46065
400.....44258, 44919
Proposed Rules:
Ch. I.....46432

14 CFR

11.....47837
39.....45257–45264, 45576, 46341, 47128, 47838, 47839, 48595–48597
65.....46736
71.....45265–45268, 45577, 46348, 47132, 47840, 48598
75.....45268
91.....46736, 47837
97.....47134
121.....46736, 47837, 48599
135.....47837
137.....47837
159.....45578
207.....46796
208.....46797
212.....46797
214.....46797
223.....46797
225.....47674
253.....48599
302.....47136
380.....46801
399.....48600
1204.....48103
1261.....48103
Proposed Rules:
Ch. I.....45305, 48649
25.....45595, 47156
39.....46434, 47157
71.....45305–45310, 46435 47158, 48651–48653
207.....46812
208.....46812
212.....46812
214.....46812
315.....47698
399.....48654

15 CFR

Ch. III.....44574
366.....48606
370.....45891
372.....45891
373.....45894
374.....45897
375.....45897
376.....45898
377.....46066
385.....47416
386.....45898, 46802
387.....45897
390.....46067
399.....47416
Proposed Rules:
8a.....46437
19.....47437
377.....47701

16 CFR

3.....45578
13.....44259, 44260, 44920, 44921, 45901, 46351, 47416–47421, 47674, 48606
300.....44260
301.....44260
303.....44260
Proposed Rules:
13.....44317, 44322, 44324, 47438
437.....47705

17 CFR

180.....47136
200.....46352
231.....47138
240.....44922
241.....47138
Proposed Rules:
Ch. II.....45554
240.....47159
249.....47853

18 CFR

1.....44965, 45902
35.....46352, 47841
36.....46352
141.....47705
272.....45904
274.....45905
282.....48110, 48111
Proposed Rules:
Ch. I.....45597
260.....46075
271.....47863
273.....45598, 47863
274.....47863
282.....44923
703.....48800
740.....48800
925.....47856

19 CFR

101.....44263, 45578
148.....45579
355.....48607
Proposed Rules:
12.....48817
19.....46442
24.....46442

20 CFR

404.....48114
416.....48118
616.....47108
675.....47421
676.....47421
677.....47421
678.....47421
679.....47421
680.....47421
725.....44264
Proposed Rules:
404.....47162, 47441
416.....47162

21 CFR

146.....45905
172.....48123
175.....48124
176.....48124, 48125
193.....47142
310.....47422
510.....45905, 48125
520.....44264, 48125–48127
522.....47422
524.....47422, 48128
540.....48128
558.....45905–45909, 47423
561.....46067
1002.....47416
1220.....44265
1304.....44266
1306.....44266
Proposed Rules:
109.....44325
110.....44325
225.....44325
226.....44325
320.....48160
500.....44325
509.....44325
589.....44326
640.....45924

22 CFR

214.....45598
301.....47674
Proposed Rules:
301.....47710

23 CFR

1252 47144

24 CFR

201 46802
203 46377
205 46803
207 ..... 46068, 46803
213 46803
220 46803
221 ..... 46377, 46803
222 46377
232 46803
235 ..... 46377, 46803
236 46803
241 46803
242 46803
244 46803
250 46803
255 45116
570 46378
841 44267
860 44267
865 46380

Proposed Rules:

16 48654
24 46012
200 47441
203 47442
570 46443
885 48654

25 CFR

161 45909
256 47410

Proposed Rules:

71 47869
72 47869

26 CFR

1 ..... 46069, 47675

Proposed Rules:

1 ..... 45311, 45924, 46082, 346444, 46815, 47871
7 46082
48 44965
301 45926

27 CFR

296 48609

28 CFR

0 44267
2 44924
55 ..... 44268, 46380, 47423

Proposed Rules:

Ch. I 45311
2 ..... 44966, 44967

29 CFR

102 44302
1601 48614
2602 ..... 47423, 48129
2700 44301

30 CFR

45 44494
49 46992
715 48129
761 47424
816 48129
817 48129

Proposed Rules:

Ch. VII 45313, 46818, 47712
211 47712
722 44326
732 ..... 45313, 47162
884 47166
918 45604
921 48661
922 48661
924 46449
925 47713
926 47166
937 48661
939 48661
943 44967
950 45927

31 CFR

214 47677
321 44590
322 44590
330 44600
535 45594

Proposed Rules:

535 45609

32 CFR

1-39 ..... 44604, 44758, 44818, 44902
100 48618
208 45580
246 46806
257 47424
359 46071
706 46380
1611 48130
1612 48130
1613 48130
1615 48130
1617 48130
1619 48130
1621 48130
1900 48131

32A CFR

Ch. I 44575
Ch. VI 44574
Ch. VII 44574, 45269
Ch. XV 44574
Ch. XVIII 44587
801 44574

33 CFR

3 47842
117 ..... 46381, 48618, 49619
161 48822
165 ..... 45269, 46382
175 45269

Proposed Rules:

110 48662
161 ..... 48826, 48827
175 47876
207 46093

36 CFR

7 46071
14 47092
1151 44925

Proposed Rules:

7 44969
251 48663

37 CFR

201 45270

38 CFR

14 47678
17 47679

Proposed Rules:

3 47166

39 CFR

265 44270
266 44270
268 44270
601 47681

Proposed Rules:

3001 48663

40 CFR

52 ..... 44273, 45275, 45581, 46072, 46382, 46806, 47424, 47682, 48131
60 47146
65 ..... 45277, 46385
81 ..... 46807, 48132, 48133
86 48133
122 48620
180 ..... 46073, 47146
261 ..... 47832, 48142
406 45582
421 44926

Proposed Rules:

Ch. I 48510
Ch. V 47442
52 ..... 44970, 45080, 45314, 45318, 45927, 46826, 47166, 47877, 48164, 48168, 48169
58 44327
60 ..... 44329, 44970
81 45080
85 48812
116 46094
117 46097
163 ..... 46097, 48170
167 46100
169 46100
180 ..... 47168, 48171
261 47835
264 48171
265 48171
401 46103
413 45322
717 47008
761 47168
770 48512
773 48524

41 CFR

Ch. 7 44275
Ch. 101 ..... 44951, 44953, 48143
101-36 47427
1-15 47685
5A-1 48142
5A-16 48142
5B-2 47148
7-6 44283
7-7 44283
8-3 46387
15-2 46387
101 47149
101-25 46388

Proposed Rules:

Ch. 5 46827
3-1 47169

42 CFR

54 48478
51b 48622
58 48623
72 48626
405 44287
460 48820

Proposed Rules:

51b 47878
54 48507
91 47878
124 48667
405 47368
442 47368
483 47368

43 CFR

1880 47618
2800 44518
4100 47104
4700 47842
5734 48629
8340 47843

Public Land Orders:

693 (Amended by PLO 5731) 45910
4522 (Amended by PLO 5732) 45911
5731 45910
5732 45911
5733 46388

Proposed Rules:

35 44972
9210 48054

44 CFR

Ch. I 44574
Ch. IV 44574, 45269
64 46389
65 48629
67 46401
205 45862

Proposed Rules:

67 ..... 46106, 46451, 47171

45 CFR

71 46808
116d 48144
220 48144
222 48144
228 48144
233 45911
1202 47689
1328 48380

Proposed Rules:

Ch. XII 45598
177 45130

46 CFR

Ch. II 44587
160 45278
502 45280
541 46073

Proposed Rules:

30 48058
91 48058
153 48058
503 48172
510 45599
536 45599

47 CFR

1 45582
22 46404
64 ..... 46404, 47427
73 ..... 45593, 46405, 47149, 47428-47429
81 46409
83 46409
95 45594

Proposed Rules:
Ch. I..... 46121
2..... 45600, 45601, 47171
15..... 46827
19..... 47885
21..... 45600, 45601, 47442
22..... 47171
43..... 47442
61..... 47442
73..... 45601, 45602, 46452–46457, 47444, 47885, 48172
74..... 45600, 45601
76..... 47445
81..... 46458
94..... 45600, 56601

48 CFR

Proposed Rules:
Subpart 42.9..... 48667

49 CFR

Ch. III..... 46423
1..... 48630
23..... 45281
171..... 46417, 47843
172..... 46417, 48631
173..... 46419, 48631
175..... 47843
178..... 46419, 48631
389..... 46423
391..... 46423
392..... 46423
393..... 46423
395..... 46423
396..... 46423–46425
571..... 45287, 47150
575..... 47152
1002..... 45526, 45534
1003..... 45534
1004..... 45528
1011..... 45525, 48631
1033..... 45288, 45289, 45912, 47844, 48149, 48631, 48632, 48636
1045A..... 45534
1047..... 45524
1056..... 45534
1062..... 45534
1100..... 45529, 45534, 48792
1101..... 45525
1104..... 48149
1130..... 45534
1131..... 45525
1136..... 45526
1150..... 45534

Proposed Rules:
Ch. X..... 44351, 45545, 45932, 46459, 48676, 48796
173..... 48668, 48671
179..... 48668, 48671
531..... 46459
533..... 46459
537..... 46459
571..... 46459
575..... 46459
581..... 46459
1033..... 47172
1039..... 47172
1111..... 46459
571..... 45334, 45336

50 CFR

17..... 44935, 44939, 47352, 47355
32..... 45289, 46428, 47430
91..... 47689
285..... 48637
296..... 44942
611..... 45291, 45296
655..... 45296
656..... 45291
674..... 44292, 47690

Proposed Rules:
Ch. II..... 45604
17..... 47715
14..... 47172
17..... 46141, 47365
20..... 44540
23..... 46464, 48677, 48830
32..... 47174, 47716
33..... 47716
219..... 44352
611..... 46141
651..... 45336, 47174, 48173
664..... 44972

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 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

34829 5–22–80 / Emission control system performance; warranty regulations

FEDERAL TRADE COMMISSION

66466 11–19–79 / Rule for using energy costs and consumption information used in labeling and advertising for consumer applicances under the Energy Policy and Conservation Act (Corrected at 44 FR 75133, 12–19–79)

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Services Administration—

41820 6–20–80 / Conduct of persons and traffic on certain Federal enclaves

HEALTH AND HUMAN SERVICES DEPARTMENT

National Institutes of Health—

41820 6–20–80 / Conduct of persons and traffic on certain Federal enclaves

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

41631 6–20–80 / List of Attorneys-in-Fact

JUSTICE DEPARTMENT

Immigration and Naturalization Service—

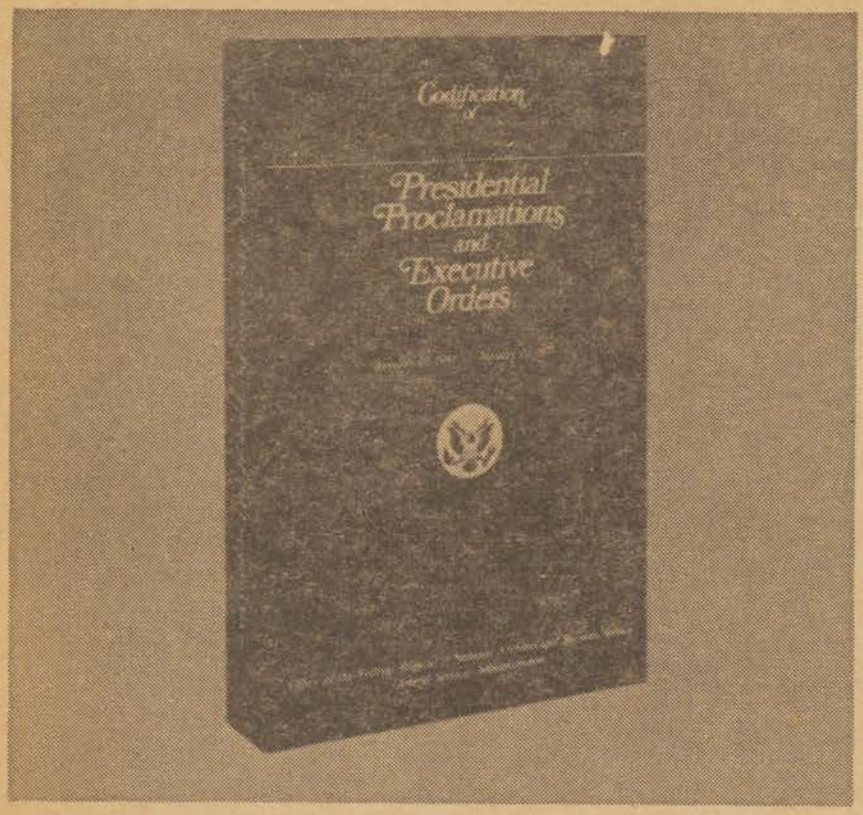
41392 6–19–80 / Immigrants; Evidence of Family Relationship between petitioner and beneficiary as stepparent or stepchild

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 July 15, 1980

NEW PUBLICATION NOW AVAILABLE



For those of you who must keep informed about Presidential proclamations and Executive orders, there is now a convenient reference source that will make researching certain of these documents much easier.

Arranged by subject matter, this first edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1977, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1961–1977 period, along with any amendments, an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

MAIL ORDER FORM To:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ *check,* ☐ *money order, or charge to my*

Deposit Account No. ☐☐☐☐☐☐☐–☐ *Order No.* _____

master charge

VISA

Credit Card Orders Only

Total charges $ _____. Fill in the boxes below:

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Master Charge Interbank No. ☐☐☐☐

FOR OFFICE USE ONLY	
Quantity	Charges
..... Enclosed	.....
..... To be mailed	.....
..... Subscriptions	.....
Postage	.....
Foreign handling	.....
MMOB	.....
OPNR	.....
..... UPNS	
..... Discount	
..... Refund	

Please send me _____ *copies of the* ***Codification of Presidential Proclamations and Executive Orders*** *at $6.50 per copy. Stock No. 022-002-00060-1*

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY STATE ZIP CODE

(or) COUNTRY

PLEASE PRINT OR TYPE