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Monday
March 30, 1981

Highlights

Cumulative List of Public Laws—The fourth and final cumulative list of public laws for the second session of the 96th Congress can be found in the **Reader Aids** section of the issue of January 7, 1981.

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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.

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Federal Register
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Presidential Documents

Title 3—

The President

Executive Order 12301 of March 26, 1981

Integrity and Efficiency in Federal Programs

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to coordinate and implement Government policies with respect to integrity and efficiency in Federal programs, it is hereby ordered as follows:

Section 1. *Establishment of the President's Council on Integrity and Efficiency.* (a) There is established as an interagency committee the President's Council on Integrity and Efficiency.

(b) The Council shall be composed of the following members:

(1) The Deputy Director of the Office of Management and Budget who shall be Chairman of the Council;

(2) The Deputy Attorney General;

(3) The Director of the Office of Personnel Management;

(4) The Executive Assistant Director of Investigations of the Federal Bureau of Investigation;

(5) Inspector General, Department of Energy;

(6) Inspector General, Department of Agriculture;

(7) Inspector General, Department of Housing and Urban Development;

(8) Inspector General, Department of Labor;

(9) Inspector General, Department of Transportation;

(10) Inspector General, Veterans Administration;

(11) Inspector General, Department of Health and Human Services;

(12) Inspector General, Department of Education;

(13) Inspector General of the Department of State and the Foreign Service;

(14) Inspector General, Department of Commerce;

(15) Inspector General, Department of the Interior;

(16) Inspector General, Community Services Administration;

(17) Inspector General, Environmental Protection Agency;

(18) Inspector General, General Services Administration;

(19) Inspector General, National Aeronautics and Space Administration;

(20) Inspector General, Small Business Administration;

(21) A designee of the Secretary of the Treasury;

(22) A designee of the Secretary of Defense, and

(23) A designee of the Director of the United States International Development Cooperation Agency.

(c) The Chairman shall, from time to time, invite the following to participate in meetings of the Council:

(1) The Comptroller General of the United States, and

(2) The Postmaster General of the United States.

Sec. 2. *Functions of the Council.* (a) The Council shall develop plans for coordinated government-wide activities which attack fraud and waste in government programs and operations.

(b) In order to ensure coordinated relationships between Federal, State and local government agencies, and nongovernment entities with respect to all matters relating to the promotion of economy and efficiency, the Council shall develop standards for the management, operation, and conduct of inspector general-type activities.

(c) Policies shall be developed by the Council which will ensure the establishment of a corps of well-trained and highly skilled auditors and investigators.

(d) The Council shall develop interagency audit and investigation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste which exceed the capability or jurisdiction of an individual agency. The Council will recognize the pre-eminent role of the Department of Justice in matters involving law enforcement and litigation.

(e) The Council membership shall, to the extent of their own authority to do so, implement those coordinated plans, standards, policies, programs, and projects (1) in order to conduct and supervise audits and investigations relating to programs and operations of the Government, and (2) in order to promote economy, efficiency, and effectiveness in the administration of programs and operations of the Government, as well as to detect fraud and abuse in such programs and operations.

(f) The creation and operation of the Council shall not interfere with existing lines of authority and responsibility in the departments and agencies.

Sec. 3. *Responsibilities of the Chairman.* (a) The Chairman shall, in consultation with the members of the Council, establish procedures for the Council; and, he shall establish the agenda for Council activities.

(b) The Chairman shall, on behalf of the Council, report to the President on the activities of the Council. The Chairman shall advise the Council with respect to the reaction of the President on the Council's activities.

(c) The Chairman shall provide agency heads with summary reports of the activities of the Council.

(d) The Chairman shall establish such committees of the Council, including an executive committee, as he deems necessary or appropriate for the efficient conduct of Council functions. Committees of the Council may act for the Council in those areas that affect the membership of the committee.

(e) The Chairman shall be supported by the Associate Director for Management of the Office of Management and Budget who shall advise and assist the Chairman in the execution of the entire range of responsibilities set forth above.

Sec. 4. *Coordinating Conference.* (a) There is established as an interagency committee the Coordinating Conference of the President's Council on Integrity and Efficiency.

(b) The Conference shall be composed of the Chairman of the Council and one representative of each Executive agency not represented on the Council. The head of each such agency shall designate as the agency's representative the official who is responsible for coordinating the agency's efforts to eliminate fraud and waste in the agency's programs and operations.

(c) The Chairman shall convene meetings of the Conference at least quarterly. The Chairman shall provide for the dissemination to the Conference of appropriate information on the activities of the Council, in order to enable the Conference membership, to the extent of their own authority to do so, to implement the coordinated plans, standards, policies, programs, and projects developed by the Council.

Sec. 5. *Administrative Provisions.* (a) The Director of the Office of Management and Budget shall provide the Council and the Conference with such administrative support as may be necessary for the performance of the functions of the Council and the Conference.

(b) The head of each agency represented on the Council or the Conference shall provide its representative with such administrative support as may be necessary, in accordance with law, to enable the agency representative to carry out his responsibilities.

Ronald Reagan

THE WHITE HOUSE,
March 26, 1981.

[FR Doc. 81-9655
Filed 3-26-81; 3:34 pm]
Billing code 3195-01-M

Editorial Note: The President's statement of March 26, 1981, on signing Executive Order 12301, and memorandums to the heads of executive agencies, dated March 26, 1981, on Governmentwide antifraud and waste efforts, is printed in the Weekly Compilation of Presidential Documents (vol. 17, no. 13)

Rules and Regulations

Federal Register
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Monday, March 30, 1981

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 of Agriculture and General Officers of the Department to reflect the position of Under Secretary for Small Community and Rural Development established by Pub. L. 96-355.

EFFECTIVE DATE: March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, Office of the General Counsel, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C., 202-447-6035.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291.

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart A—General

1. Section 2.4 is revised to read as follows:

§ 2.4 General officers.

The work of the Department is under the supervision and control of the Secretary, who is assisted by the following general officers: the Deputy Secretary; the Under Secretary for International Affairs and Commodity Programs; the Under Secretary for Small Community and Rural Development; the Assistant Secretary for Natural Resources and Environment; the Assistant Secretary for Food and Consumer Services; the Assistant Secretary for Marketing and Transportation Services; the Assistant Secretary for Governmental and Public Affairs; the General Counsel; the Director of Economics, Policy Analysis and Budget; the Assistant Secretary for Administration; the Inspector General; the Judicial Officer; and the Director, Science and Education.

2. Section 2.5 is revised to read as follows:

§ 2.5 Order in which officers of the Department shall act as Secretary.

(a) Pursuant to Executive Order 11957, dated January 13, 1977 (42 FR 3295), in the case of the absence, sickness, resignation, or death of both the Secretary and the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs and the Under Secretary for Small Community and Rural Development shall act as Secretary in the order in which they have taken office as an Under Secretary. In the event that both Under Secretaries shall have taken office simultaneously, they shall act as Secretary in the order in which they are listed herein.

(b) In the case of the absence, sickness, resignation, or death of the Secretary, the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, and the Under Secretary for Small Community and Rural Development, the Assistant Secretary for Natural Resources and Environment, the Assistant Secretary for Food and Consumer Services, the Assistant Secretary for Marketing and Transportation Services, and the Assistant Secretary for Governmental and Public Affairs shall act as Secretary in the order in which they have taken office as an Assistant Secretary. In the event that any two or more Assistant Secretaries shall have taken office simultaneously, they shall act as Secretary in the order in which they are listed herein.

(c) In the case of the absence, sickness, resignation, or death of the Secretary, the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and the Assistant Secretaries referred to in paragraph (b) of this section, the General Counsel shall act as Secretary.

3. The heading of Subpart C is revised to read as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, Assistant Secretaries, and the Director of Economics, Policy Analysis and Budget

§ 2.19 [Amended]

4. Section 2.19 is amended by removing the term "Assistant Secretary for Rural Development" in paragraphs (f)(4)(v) and (f)(6) and substituting in lieu thereof the term "Under Secretary for Small Community and Rural Development".

§ 2.23 [Amended]

5. Section 2.23 is amended by removing the term "Assistant Secretary for Rural Development" in the heading, the introductory paragraph, and in paragraph (a)(1) and substituting in lieu thereof the term "Under Secretary for Small Community and Rural Development".

§ 2.39 [Amended]

6. Section 2.39 is amended by removing the term "Assistant Secretary for Rural Development" in paragraph (d) and substituting in lieu thereof the term "Under Secretary for Small Community and Rural Development".

7. The heading of Subpart I is revised to read as follows:

Subpart I—Delegations of Authority by the Under Secretary for Small Community and Rural Development

8. Section 2.69 is revised to read as follows:

§ 2.69 Deputy Under Secretary for Small Community and Rural Development.

(a) Pursuant to § 2.23, subject to reservations in § 2.24, and subject to

policy guidance and direction by the Under Secretary, the following delegation of authority is made by the Under Secretary for Small Community and Rural Development to the Deputy Under Secretary for Small Community and Rural Development, to be exercised only during the absence or unavailability of the Under Secretary:

(1) Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Under Secretary for Small Community and Rural Development.

9. Section 2.70 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 2.70 Administrator, Farmers Home Administration.

(a) *Delegations.* Pursuant to § 2.23 (a) and (g), and subject to policy guidance and direction by the Under Secretary for Small Community and Rural Development, the following delegations are made by the Under Secretary for Small Community and Rural Development to the Administrator, Farmers Home Administration:

* * * * *

10. Section 2.70 is further amended by removing the term "Assistant Secretary for Rural Development" in paragraphs (a)(16) and (b) and substituting in lieu thereof the term "Under Secretary for Small Community and Rural Development".

11. Section 2.72 is amended by revising the introductory text in paragraphs (a) and (b) to read as follows:

§ 2.72 Administrator, Rural Electrification Administration.

(a) *Delegations.* Pursuant to § 2.23(c) and subject to policy guidance and direction by the Under Secretary for Small Community and Rural Development, the following delegations of authority are made by the Under Secretary for Small Community and Rural Development to the Administrator, Rural Electrification Administration:

* * * * *

(b) *Reservations.* The following authorities are reserved to the Under Secretary for Small Community and Rural Development:

* * * * *

§ 2.84 [Amended]

12. Section 2.84 is amended by removing the term "Assistant Secretary for Rural Development" in paragraph (a)(21) and substituting in lieu thereof the term "Under Secretary for Small Community and Rural Development".

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

For Subparts A, C and I.

Dated: March 23, 1981.

John R. Block,

Secretary of Agriculture.

[FR Doc. 81-9207 Filed 3-27-81; 8:45 am]

BILLING CODE 3410-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; EFT-1]

Electronic Fund Transfers; Final Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation.

SUMMARY: The Board staff is publishing, in final form, official staff interpretation EFT-1 of Regulation E, Electronic Fund Transfers, regarding the preemption of certain provisions of the Michigan statute governing electronic fund transfers. The interpretation is issued in accordance with 12 CFR 205.13(b)(2) of the regulation, under authority delegated by the Board to the Director of the Division of Consumer and Community Affairs (45 FR 54011, August 8, 1980). It is based on a section-by-section comparison of the federal and state laws. Inconsistent state law provisions are preempted by the federal act unless they are more protective of the consumer, as provided by § 205.12 of Regulation E. A proposed interpretation was published on August 8, 1980 (45 FR 54070), and the agency is taking final action after reviewing the comments received.

EFFECTIVE DATE: March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Susan M. Werthan, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) The text of official staff interpretation EFT-1 is published with identifying details deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index that provides identifying information for the public, subject to certain limitations stated in 12 CFR 261.6.

(2) The Board staff's proposed version of EFT-1, which was limited to a consideration of those sections of state law on which a determination was specifically requested, concluded that the following provisions of the Michigan statute should be preempted: Section 14 regarding consumer liability for unauthorized use of an account; Section 15 governing error resolution; and Sections 17 and 18 covering receipts and periodic statements. Under the proposal, the following provisions were not preempted: Section 13 governing issuance of unsolicited access devices; Section 5(4) defining unauthorized use of an access device; and Section 19 regarding initial disclosures.

Six comments were received. They addressed both the section-by-section analysis and the specific preemption determinations. The commenters' primary concern was the proposed preemption of the Michigan provisions governing a consumer's liability for unauthorized use of an account. Although several commenters disagreed with the staff's conclusion, it was recognized that depending on the circumstances, either the state provisions or Regulation E could be more protective of certain consumers. Some commenters also disagreed with the proposal not to preempt the Michigan sections covering the issuance of unsolicited access devices, the definition of unauthorized use, and the furnishing of initial disclosures.

(3) In light of the comments received and upon reconsideration, it has been decided that the state law definition of unauthorized use should be preempted. The decisions regarding preemption of the other provisions addressed in the proposal are otherwise unchanged. Certain revisions, along with nonsubstantive, editorial changes, have been made to the text of the interpretation. These include the following:

The text has been amended to clarify that preemption determinations have been made only for those sections of the state statute on which a determination was specifically requested.

Paragraph 1 of the numbered preemption conclusions, regarding the non-preemption of state law on the issuance of unsolicited access devices, includes a reference to the fact that state law contains more restrictive language regarding persons to whom unsolicited access devices may be issued.

Paragraph 2, regarding the state law's definition of unauthorized use, reverses the position taken in the proposal, to provide internal consistency with the preemption of the substantive provisions dealing with liability for unauthorized use.

Paragraph 3 explains more fully the reasons underlying the preemption of the state provision governing consumers' liability for unauthorized use of an account; a more detailed comparison of the state statute with Regulation E is given.

Finally, a statement regarding the scope of the Michigan statute, to the effect that the Michigan statute covers only terminal-based transfers, has been deleted. The staff believes, upon reconsideration, that it is better not to attempt to interpret the state law in this regard.

(4) Authority: 15 U.S.C. 1693m(d).

§ 205.12 (a) and (b)—Preemption of certain provisions of the Michigan statute governing electronic fund transfers.

March 23, 1981.

This is in response to your letter of . . ., in which you request that the Board determine the extent to which the Michigan statute governing electronic fund transfers is preempted by the Federal Electronic Fund Transfer (EFT) Act and Regulation E. The following is an official staff interpretation making such a determination, under authority delegated by the Board on August 8, 1980 (45 FR 54011). Preemption determinations have been made only with regard to those sections of the Michigan statute for which a decision was specifically requested. As section 919 of the act provides, financial institutions will incur no liability for a good faith failure to comply with a state requirement that has been determined to be inconsistent and that is preempted.

The following general analysis was used in making the determinations about preemption. If the state law is the same as federal law, no preemption occurs. If the state law is different from federal law, but financial institutions can comply with both, state law is not preempted and institutions must comply with both laws. If state law is different from federal law, and institutions may violate state law by complying with federal law, the laws are inconsistent within the meaning of § 205.12 (a) and (b). In this case, if state law is more protective of the consumer, state law is not preempted. Otherwise, federal law preempts state law and institutions need comply only with federal law.

The preemption determinations were based on a section-by-section analysis of the Michigan statute and Regulation E. After consideration of the inconsistencies between each requirement of a given section and the corresponding requirement in the federal law, the section was viewed as a whole. A comparison of groups of related sections was also made. The statutory language, which refers to inconsistencies in "provisions" of federal and state statutes, supports this type of analysis. This approach also avoids the formation of the very complex hybrid rules that would result from preemption of individual requirements within each section.

You asked that several specific sections of the Michigan statute be preempted. The final preemption determinations are as follows:

1. Section 13 of the Michigan statute regarding issuance of unsolicited access devices is inconsistent with § 205.5 of Regulation E, but is more protective of the consumer and therefore is not preempted by the federal law. State law provisions contributing to this conclusion include the requirements that an unsolicited access device be accepted in writing by the consumer; that additional information be given to the consumer after acceptance; and that the issuance of unsolicited access devices be limited to a financial institution's own customers (whereas Regulation E permits issuance to any consumer).

2. Section 5(4) of the state statute, which defines unauthorized use of an access device, is inconsistent with § 205.2(1) of Regulation E. Since the state provisions covering liability for unauthorized use of an access device have been preempted, the definition of unauthorized use is also preempted. This treatment of related sections is necessary for a meaningful result.

3. Section 14 of the state statute, which governs the consumer's liability for unauthorized use of an account, is inconsistent with § 205.6 of Regulation E. The state provision is not more protective of the consumer and is preempted. The negligence standard contained in the state statute could result in the consumer's increased exposure to liability. Under the state statute, negligent consumers appear to be liable for all unauthorized transfers, and non-negligent consumers may be liable for such transfers if they fail to notify a financial institution within 30 days of an unauthorized transfer. Regulation E limits liability based on the promptness of a consumer's notice to the financial institution, and imposes unlimited liability for subsequent transfers after 60 days have elapsed, rather than after 30 days as the state statute provides. Preemption of a negligence standard is also supported by the EFT Act's legislative history, which shows that the Congress rejected a negligence standard in the federal law in favor of liability based on promptness of notification.

4. Section 15 of the state statute governing error resolution procedures is inconsistent with § 205.11 of Regulation E. Section 205.12(b)(3) of Regulation E specifies that longer time periods for error resolution provide a basis for a finding of inconsistency. The state statute permits a possible 70 days for errors to be resolved, while Regulation E permits a maximum of 45 days. Because the Michigan law is not more protective of the consumer, it is preempted.

5. Sections 17 and 18 of the state statute, which cover receipt and periodic statement requirements, are inconsistent with § 205.9 of Regulation E. Under § 205.12(b)(4), inconsistency may exist if state law provisions for receipts or periodic statements are different in content from those required under federal law. Such differences exist between the requirements of the Michigan statute and the federal provisions. The state statute is not more protective of the consumer since it provides for the consumer's paying the cost of getting a terminal receipt if a machine cannot furnish one at the time of a transfer. The state provisions governing receipts and periodic statements are therefore preempted.

6. Section 19 of the state statute regarding initial disclosures is inconsistent with § 205.7 of Regulation E, but is not preempted. Since the state provision requires initial disclosures to be given when an access card is issued, rather than at any time before the first electronic fund transfer is made, as Regulation E provides, the state law is more protective of the consumer. Therefore, the Michigan provision stands. Two items in the disclosure statement, however, must conform to the federal requirements. Because the corresponding substantive sections of federal law have preempted state law, the liability disclosure and the error resolution disclosure must conform to the federal requirements.

The scope of the Michigan statute appears to be narrower than that of the federal EFT Act and seems to cover only terminal-based transfers. To the extent that this is the case, the federal provisions will continue to govern all electronic fund transfers that are outside the scope of the state statute.

This is an official staff interpretation of Regulation E, issued pursuant to § 205.13(b)(2) of Regulation E. It is limited to the facts and issues discussed above.

Sincerely,

Janet Hart,

Director.

Board of Governors of the Federal Reserve System, March 23, 1981.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-9481 Filed 3-27-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 510, 511 and 522

[No. 81-133]

Post-Employment Conflict of Interest

Dated: March 12, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is promulgating new regulations to govern post-employment conflicts of interest. These new regulations are required by the Ethics in Government Act of 1978.

EFFECTIVE DATE: April 22, 1981.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley [(202) 377-6444], Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 510.2 of the Board's General Regulations (12 CFR 510.2) contains restrictions on the activities of former employees of the Board and the Federal Home Loan Banks. Paragraph (b) of that section prohibits certain post-employment

appearances before the Board by an individual who participated in or was responsible for the matter in issue while an employee of the Board or a Bank, and paragraph (c) contains restrictions on the subsequent employment of former Board employees who engaged in activities involving discretion with respect to the granting of applications or financial assistance to institutions.

The Ethics in Government Act of 1978 (Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1864) significantly revised the restrictions on activities of former Federal employees found at 18 U.S.C. 207. Public Law 96-28 (93 Stat. 76, June 22, 1979) made further amendments to Section 207. Section 207 now contains four basic prohibitions, which may be summarized as follows: (1) a lifetime ban against any former employee representing anyone other than the United States before any Federal agency or court on a matter in which he or she participated personally and substantially while a Federal employee; (2) a two-year ban against any former employee representing anyone other than the United States before any Federal agency or court on any matter pending under his or her official responsibility during the last year of Federal employment; (3) a two-year ban against former "senior employees" representing or aiding in the representation of anyone other than the United States by personal presence before any Federal agency or court on any matter in which he or she participated personally and substantially while a Federal employee; and (4) a one-year ban against any former "senior employee" making any contact with his or her former agency on behalf of anyone other than the United States on any matter pending before the agency.

Paragraph (j) of 18 U.S.C. 207 requires each agency to establish procedures, in consultation with the Office of Government Ethics, for disciplinary action against a former employee who has violated the substantive provisions of that section. The Office of Personnel Management has issued regulations at 5 CFR Part 737 (45 FR 7402, Feb. 1, 1980) that consist of (1) substantive provisions implementing the prohibitions found at 18 U.S.C. 207, and (2) guidelines for the adoption of regulations by Federal departments and agencies regarding administrative enforcement procedures. The Board has accordingly promulgated new regulations at 12 CFR 511.737-1 and 511.737-2 based on the Office of Personnel Management guidelines. At the same time, the Board has revoked its existing regulations on post-employment conflicts of interest that apply to Board employees, and moved the existing regulations that apply to former Bank employees to 12 CFR 522.73 of the Federal Home Loan Bank System Regulations.

Revocation of 12 CFR 510.2

By this resolution, the Board has revoked in its entirety 12 CFR 510.2, which contains restrictions on the activities of former employees. The provisions of 18 U.S.C. 207 (as amended by the 1978 Act and Pub. L. 96-28) are the product of thorough consideration by Congress of post-employment conflict-of-interest problems, and provide a comprehensive scheme of restrictions that is, to some extent, inconsistent with the restrictions of § 510.2. It is appropriate that § 510.2 be revoked, since former Board employees are now subject to the more detailed and restrictive limitations on post-employment activities contained in 18 U.S.C. 207 and 5 CFR Part 737.

New 12 CFR 522.73

Former 12 CFR 510.2, which has been revoked by this action, contained provisions in paragraph (b) that limited the post-employment activities of former employees of the Federal Home Loan Banks. These restrictions were adopted because certain employees of the district Banks act as agents of the Board with regard to the approval of applications from the industry. For example, Federal associations' applications for branch offices are submitted first to the district Supervisory Agents, who have the power to grant or deny supervisory clearance. Section 510.2(b) prohibited former Bank employees from making certain appearances before the Board regarding matters in which they participated or for which they had official responsibility. These provisions were adopted pursuant to the Board's authority to supervise the Banks (12 U.S.C. 1437).

As explained above, the provisions of 12 CFR 510.2 have been revoked because of their inconsistency with the new scheme of post-employment restrictions found at 18 U.S.C. 207. New Section 207, however, is applicable only to one who has been "an officer or employee" of the U.S. Government; and the terms "officer" and "employee," as defined in 5 U.S.C. 2104 and 2105, do not include employees of the Banks. Revocation of 12 CFR 510.2 would therefore cause Bank employees to no longer be subject to any restrictions on their post-employment activities, unless new provisions applicable to Bank employees are adopted.

The Board has determined that Bank employees should continue to be subject to restrictions on their post-employment activities, in light of the potential for conflicts of interest that arises from their involvment in certain Board functions. The restrictions found in existing 12 CFR 510.2(b), which are substantially identical to those in 18 U.S.C. 207 applicable to all U.S. government employees, adequately serve this purpose. The Board has therefore created a new 12 CFR 522.73 in the Federal Home Loan Bank System regulations which incorporates the restrictions on post-employment activities of Bank employees that were previously found at 12 CFR 510.2(b).

In creating a new § 522.73 applicable to former Bank employees, the Board has adopted, almost verbatim, the language of former § 510.2(b). The only change is that the undefined term "any proceeding or other matter" has been replaced with the phrase "any particular matter involving that specific party (as defined in 5 CFR Part 737)." The Office of Personnel Management has set forth a comprehensive definition of the term "particular matter involving a specific party or parties" at 5 CFR 737.5(c) for purposes of administering the Ethics in Government Act of 1978. This definition arises out of considerations identical to those underlying the restrictions in new § 522.73. The Board has decided to incorporate this definition (to the extent it is applicable) in new § 522.73 to aid in future interpretation and enforcement of the regulation.

New Subpart F

By this resolution, the Board has adopted new Subpart F to 12 CFR Part 511. The regulations in this subpart implement the substantive provisions of Title V of the Ethics in Government Act of 1978 (18 U.S.C. 207), and the substantive and procedural provisions of the Office of Personnel Management regulations promulgated pursuant thereto (5 CFR Part 737). These new provisions are incorporated in Part 511, rather than former 12 CFR 510.2, so that they will be conveniently located with the other provisions on employee conduct and responsibility found in that Part. The designation "737" is used in the numbering of these sections to indicate that they correspond to Part 737 of the Office of Personnel Management's regulations (5 CFR Part 737). A comprehensive explanation of the regulations at 5 CFR Part 737 may be found at 44 FR 19974, April 3, 1979, and 45 FR 7402, Feb. 1, 1980, where those regulations are published. The following discussion highlights the few differences

between the Office of Personnel Management's guidelines at 5 CFR Part 737 and the regulations adopted by the Board.

A. *Applicable provisions of law.* New 12 CFR 511.737-1 is designed to inform employees of the Board that they must abide by the restrictions on post-employment activities found at 18 U.S.C. 207 and 5 CFR Part 737, and that violation of these provisions may give rise to administrative sanctions under new § 511.737-2 and criminal sanctions under 18 U.S.C. 207.

B. *Enforcement proceedings.* The Board's enforcement proceedings for violations of 18 U.S.C. 207 and 5 CFR Part 737 are set forth in new 12 CFR 511.737-2. These provisions follow the guidelines published by the Office of Personnel Management (45 FR 7402, Feb. 1, 1980), although several appropriate changes have been made:

1. *Information regarding possible violations.* Subsection 511.737-2(b)(1) identifies the Office of the Chairman as the contact point for both employees and outside individuals who receive information regarding possible violations of 18 U.S.C. 207 or 5 CFR Part 737. The Chairman shall promptly initiate an investigation upon receipt of such information. The Internal Evaluation and Compliance Office is charged with investigating violations of the Board's employee conflict-of-interest regulations (Chairman's Order No. 464, Oct. 16, 1980).

2. *Privacy of a former employee.* The Office of Personnel Management has suggested that agencies adopt "procedures to protect the privacy of former employees as to allegations made prior to a determination of sufficient cause to initiate an administrative disciplinary hearing" (5 CFR 737.27(a)(2)(ii)). Accordingly, the Board has adopted safeguards to protect an individual subject to an investigation, which are found at 12 CFR 511.737-2(b)(3). The new provisions ensure that information collected pursuant to the Board's investigation of an alleged violation will not be accessible to anyone except those participating in the investigation or hearing. In addition, the Chairman (or a delegate) is authorized to take any steps warranted by the particular circumstances that are necessary to protect the former employee's privacy.

3. *Qualifications of an adjudicator.* An "adjudicator" is defined at 12 CFR 511.737-2(d)(1) as "an individual to whom the Chairman has delegated authority to make an initial decision" in the case. The Office of Personnel Management guidelines recommend that "appropriate qualifications" be established for such officials (5 CFR 737.27(a)(4)(ii)). The Board requires that an adjudicator be: (1) an employee of the agency; (2) familiar with the relevant provisions of law; and (3) otherwise qualified to carry out an adjudicator's duties.

An adjudicator must be familiar with the functions of the agency in order to determine whether activities giving rise to a violation have occurred. The threshold requirement of employment with the agency has been adopted because it is not likely that non-employees would be sufficiently familiar with the agency's functions.

An adjudicator will have the responsibility of passing on questions of both law and fact. It is essential, therefore, that an adjudicator be familiar with the provisions of 18 U.S.C. 207 and 5 CFR Part 737 as a prerequisite to serving in that capacity.

The Chairman is authorized to appoint as adjudicator an individual who meets the above qualifications and is also "otherwise qualified to carry out the duties of that position." This last criterion gives the Chairman discretion to select an individual who has the character traits necessary to carry out the responsibilities of an adjudicator.

The term "adjudicator" has been chosen to describe this official, rather than the term "examiner" used in the Office of Personnel Management guidelines (5 CFR 737.27), in order to avoid confusion because the term "examiner" is already used to refer to Board employees who conduct examinations of FSLIC-insured institutions.

4. *Final decisions.* The Board has modified slightly the format of the Office of Personnel Management guidelines (5 CFR 737.27) with regard to the provisions for initial and final decisions, for purposes of clarifying when a determination is final. The Board's new § 511.737-2 provides that a final decision may be entered in four different circumstances: (1) when the Chairman (or a delegate) conducts a hearing and issues a final written determination, subsequent to the initial decision of an adjudicator; (2) when the Chairman (or a delegate) conducts a hearing and issues a final written determination in a case where the initial hearing procedure has not been used; (3) when a former employee has received the required notice of alleged violation and fails to request a hearing; and (4) when an appeal from an adverse initial decision is not taken within the prescribed thirty-day period.

5. *Time period for appeal.* The Office of Personnel Management guidelines, at 5 CFR 737.27(a)(8)(ii), authorize each agency to set a reasonable period for appeal of an initial decision by the adjudicator. The Board has adopted a thirty-day rule, which is the same as the general rule of 28 U.S.C. 2107 regarding appeal of a final adjudication of a district court and the rule of 18 U.S.C. 3731 regarding appeal of a decision in a criminal case by the United States.

(6) *Judicial review.* The provision at 12 CFR 511.737-2(j) relating to judicial review of a determination of violation varies slightly from the provision in the guidelines (5 CFR 737.27(a)(10)) only for the purpose of clarifying that judicial review lies in a United States District Court, as provided at 18 U.S.C. 207(j).

The Board has determined that observance of the notice and comment procedures prescribed at 5 U.S.C. 553(b) and 12 CFR 508.12 is unnecessary because this resolution concerns a matter relating to agency personnel and management.

Accordingly, the Board hereby amends Parts 510 and 511, Subchapter A, and Part 522, Subchapter B, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER A—GENERAL

PART 510—MISCELLANEOUS RULES

§ 510.2 [Removed]

1. Remove § 510.2.

PART 511—EMPLOYEE RESPONSIBILITIES AND CONDUCT

2. Add new Subpart F, to read as follows:

Subpart F—Conduct and Responsibilities of Former Employees—Enforcement

Authority: 18 U.S.C. 207(j); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

Subpart F—Conduct and Responsibilities of Former Employees—Enforcement

§ 511.737-1 Applicable provisions of law.

Former employees of the Agency must abide by the provisions of 18 U.S.C. 207 and 5 CFR Part 737, which bar certain acts by former Government employees that may reasonably give the appearance of making unfair use of prior Government employment and affiliations. Violation of those provisions will give rise to Agency enforcement proceedings, as provided in § 511.737-2, and may also result in criminal sanctions, as provided in 18 U.S.C. 207.

§ 511.737-2 Enforcement proceedings.

(a) *Delegation.* The Chairman of the Board may delegate his or her authority under this Subpart.

(b) *Initiation of disciplinary hearing.* (1) Information regarding a possible violation of 18 U.S.C. 207 or 5 CFR Part 737 should be communicated to the Office of the Chairman. The Chairman shall promptly initiate an investigation to determine whether there is reasonable cause to believe that a violation has occurred.

(2) On receipt of information regarding a possible violation of 18 U.S.C. 207, and after determining that such information appears substantiated, the Chairman of the Agency shall expeditiously provide such information, along with any comments or Agency regulations, to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. The Agency shall coordinate any investigation with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice communicates to the Agency that it does not intend to initiate criminal prosecution.

(3) Whenever the Agency has determined after appropriate review that there is reasonable cause to believe that a former employee has violated 18 U.S.C. 207 or 5 CFR Part 737, it shall initiate a disciplinary proceeding by providing the former employee with notice as defined in paragraph (c) of this section.

(4) At each stage of any investigation or proceeding under this section, the Chairman shall take whatever steps are necessary to protect the privacy of the former employee. Only those individuals participating in an investigation or hearing shall have access to information collected by the Agency pursuant to its investigation of the alleged violation.

(c) *Adequate notice.* (1) The Agency shall provide a former employee with adequate notice of an intention to institute a proceeding and an opportunity for a hearing.

(2) Notice to the former employee must include:

(i) A statement of allegations (and the basis thereof) sufficiently detailed to enable the former employee to prepare an adequate defense;

(ii) Notification of the right to a hearing;

(iii) An explanation of the method by which a hearing may be requested; and

(iv) Notification that if a hearing is not requested within 30 days of receipt of notice, the Agency will issue a final decision finding the alleged violations have occurred.

(3) Failure to request a hearing within 30 days of receipt of notice will be deemed an admission of the allegations contained in the notice and will entitle the Agency to issue a final decision finding the alleged violations have occurred.

(d) *Presiding official.* (1) The presiding official at proceedings under this Subpart shall be the Chairman, or an individual to whom the Chairman has delegated authority to make an initial decision (hereinafter referred to as "adjudicator").

(2) An adjudicator shall be an employee of the Agency who is familiar with the relevant provisions of law and is otherwise qualified to carry out the duties of that position. He or she shall be impartial. No individual who has participated in any manner in the decision to initiate the proceedings may serve as an adjudicator.

(e) *Time, date and place.* (1) The hearing shall be conducted at a reasonable time, date, and place.

(2) In setting a hearing date, the presiding official shall give due regard to the former employee's need for:

(i) Adequate time to prepare a defense properly; and

(ii) An expeditious resolution of allegations that may be damaging to his or her reputation.

(f) *Hearing rights.* A hearing shall include the following rights:

(1) To represent oneself or to be represented by counsel,

(2) To introduce and examine witnesses and to submit physical evidence,

(3) To confront and cross-examine adverse witnesses,

(4) To present oral argument, and

(5) To receive a transcript or recording of the proceedings, on request.

(g) *Burden of proof.* In any hearing under this subpart, the Agency has the burden of proof and must establish substantial evidence of a violation.

(h) *Hearing decision.* (1) The presiding official shall make a determination exclusively on matters of record in the proceeding, and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue. If the hearing is conducted by the Chairman, the resulting written determination shall be a final decision; if the hearing is conducted by an adjudicator, the written determination shall be an initial decision.

(2) Within thirty days of the date of an initial decision, either party may appeal the decision to the Chairman. The Chairman shall base his or her decision on such appeal solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(3) If the Chairman modifies or reverses the initial decision, he or she shall specify such findings of fact and conclusions of law as are different from those of the adjudicator.

(4) If no appeal is taken from an initial decision within the prescribed time period of thirty days, the initial decision shall become a final decision.

(i) *Sanctions.* The Chairman shall take appropriate action in the case of any individual who is found in violation of 18 U.S.C. 207 or 5 CFR Part 737 after a final decision, by

(1) Prohibiting the individual from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the Agency on any matter of business for a period not to exceed five years, which may be accomplished by directing employees of the Agency to refuse to participate in any such appearance or to accept any such communication; or

(2) Taking other appropriate disciplinary action.

(j) *Judicial review.* Any person found by the Agency to have participated in a violation of 18 U.S.C. 207 or 5 CFR Part 737 may seek judicial review of the determination in an appropriate United States District Court.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 522—ORGANIZATION OF BANKS

3. Revise the heading that immediately precedes § 522.70, to read as follows:

Selection, Compensation, and Conduct of Officers and Employees

4. Add new § 522.73, to read as follows:

§ 522.73 Restrictions as to former employees.

(a) As used in this section, the term "employee" includes an officer, an agent, or an attorney.

(b) No former employee of a Bank shall appear before the Board as attorney or other representative of any party (other than the Board, the Federal Savings and Loan Insurance Corporation, or a Bank) in any particular matter involving that specific party (as defined in 5 CFR Part 737):

(1) In which the former employee participated personally and substantially during the period of such employment; or

(2) For which the former employee was officially responsible during the

period of such employment, unless one year has elapsed since the termination of such employment.

[12 U.S.C. 1437(a); 18 U.S.C. 207(j); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071]

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-9486 Filed 3-27-81; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 556

[No. 81-157]

Statement of Policy Amendment Regarding Supervisory Mergers and Acquisitions

Dated: March 23, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; request for comments.

SUMMARY: The Federal Home Loan Bank Board has amended its regulations to clarify its policy regarding supervisory mergers, consolidations, and purchases of assets in certain circumstances that will result in interstate branch office operations of Federally-chartered savings and loan associations.

EFFECTIVE DATE: March 23, 1981.

COMMENTS: The Board is soliciting public comment on this final rule. Comments must be received by May 29, 1981.

ADDRESS: Send comments to the Public Information Office, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley, Attorney, Federal Home Loan Bank Board, at the above address. Telephone: (202) 377-6444.

SUPPLEMENTARY INFORMATION: The Board's policy statement on branching at 12 CFR 556.5(a)(3) currently states that generally the Board will permit a Federally-chartered association to operate branch offices only in the state in which the association's home office is located. The statement is broadly worded so as to apply to establishment of branch offices accomplished through merger, consolidation, or purchase of asset, as well as through opening new branch facilities.

The scope of the interstate branching prohibition in § 556.5(a)(3) is qualified by the word "generally," which reserves to the Board discretion to approve interstate branch operations in special circumstances. The exceptional nature of acquisition transactions supervised by the Federal Savings and Loan Insurance Corporation (FSLIC) to prevent the failure of an insured institution gives rise to such special circumstances. Though the Board has authority to approve interstate acquisitions in supervisory cases, the Board's regulations do not presently set forth any policy guidelines regarding factors it will consider when deciding whether to exercise this authority.

This resolution amends the Board's policy statement to clarify that the Board may approve a merger, consolidation, or purchase of assets involving a Federal association that would not otherwise be permissible under the general rule if (1) the proposed acquisition will be effected pursuant to a plan to prevent the failure of an institution insured by the FSLIC, (2) the Board determines that the insurance liability or risk of the FSLIC will be reduced as a result of the proposed acquisition, and (3) the Board determines that the insurance liability or risk of the FSLIC resulting from the proposed acquisition transaction will be substantially less than the liability or risk that would result from otherwise equally desirable acquisition alternatives, if any, that would not result in interstate branch operations. In cases where more than one out-of-state institution is applying for Board approval of an acquisition transaction, the Board will give preference to a particular application on the basis that the applicant is already operating in the same Standard Metropolitan Statistical Area or locality as the other institution or each of the other institutions that would be parties to the proposed transaction.

It should be noted that the amendment accomplished by this resolution applies only to the specific types of supervisory cases described therein. This final rule does not alter the Board's policy regarding interstate branching in non-supervisory contexts. With respect to supervisory cases to which the rule applies, the amendment does not alter the Board's long-standing preference for intrastate supervisory mergers and acquisitions.

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. 553(b) and the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. 553(d) would be contrary to the public interest. An immediate effective date is necessary to clarify Board policy regarding interstate acquisitions in supervisory cases and will facilitate the operations of the FSLIC in this area.

The Board requests public comment on the amendment implemented by this resolution, particularly with respect to the limitations on interstate acquisitions and the provision for preference for transactions involving institutions within the same Standard Metropolitan Statistical Area or locality. After reviewing the comments received pursuant to this request, the Board will determine whether any changes in the policies implemented by this resolution are appropriate.

Accordingly, the Board hereby amends Part 556, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 556—STATEMENTS OF POLICY

Revise paragraph (a)(3) of § 556.5, to read as follows:

§ 556.5 Establishment of branch offices.

(a) * * *

(3)(i) The Board generally will approve the establishment of a branch only in the state in which the home office is located.

(ii) (*a*) Notwithstanding the preceding paragraph, the Board may approve the establishment of a branch office in a state other than the state in which the home office is located, provided that:

(*1*) The establishment of the branch office will be achieved by acquiring assets of another institution, by merger or otherwise pursuant to an action by the Federal Savings and Loan Insurance Corporation to prevent the failure of the other institution,

(*2*) The Board determines that the insurance liability or risk of the Federal Savings and Loan Insurance Corporation will be reduced as a result of maintaining the branch office, and

(*3*) If any otherwise equally desirable acquisition alternative that could be approved in accordance with subparagraph (3)(i) of this section has been submitted, the Board determines that the insurance liability or risk of the FSLIC resulting from the proposed interstate acquisition transaction will be substantially less than the liability or risk that would result from such other acquisition alternative.

(*b*) In reviewing acquisition alternatives submitted for consideration in accordance with this subparagraph (3)(ii), the Board will give preference to a particular alternative on the basis that a home office or an operating branch office of an association that will be a

party to the proposed acquisition is located in the same Standard Metropolitan Statistical Area or locality as a home office or an operating branch office of the other association or each of the other associations that will be parties to the acquisition.

* * * * *

(12 U.S.C. 1464, 1729; Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-9478 Filed 3-27-81; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-CE-1-AD; Amendment 39-4075]

Airworthiness Directives; Cessna Model 172RG Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Cessna Model 172RG airplanes. This AD requires, prior to further flight, a one-time inspection of the cabin heater and engine exhaust installation. It also requires, within 10 flight hours, modification of the cabin heater and engine exhaust installation. These actions are necessary to prevent carbon monoxide from entering the airplane cabin and causing adverse effects on the occupants which could result from these defective cabin heaters.

EFFECTIVE DATE: April 6, 1981, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated February 27, 1981.

COMPLIANCE: As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Paul O. Pendleton, Aerospace Engineer, Aircraft Certification Program, FAA, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-7927.

SUPPLEMENTARY INFORMATION: Reports have been received of loose cabin heater shrouds that chafe on the engine exhaust on Cessna Model 172RG airplanes. One of these reports stated that the shroud chafed through the exhaust muffler causing possible carbon monoxide poisoning. As a result, the FAA concluded that other airplanes of the same type design may have similar cabin heater damage which, if undetected and not corrected, could result in carbon monoxide entering the cabin area with adverse effects on the occupants. The FAA determined that this was a serious safety hazard, that an emergency condition existed, that immediate corrective action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, an emergency AD airmail letter dated February 27, 1981, was sent to all known registered owners of the affected airplanes. The AD, which is identified as 81-05-05 sets forth a means for detecting and correcting defective cabin heaters. AD 81-05-05 became effective to registered owners upon receipt of the airmail letter. Since the unsafe condition described herein may still exist on other Cessna Model 172RG airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, the regulation is within the exemption provisions of Section 8(a)(1) of Executive Order 12291. In addition, notice and public procedure under 5 U.S.C. 553(b) were considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the 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 Section 39.13) is amended by adding the following AD:

Cessna: Applies to Model #172RG (Serial Numbers 172RG0001 thru 172RG0789) airplanes certificated in all categories.

COMPLIANCE: Required as indicated unless already accomplished.

To reduce the possibility of carbon monoxide contamination entering the cabin area, accomplish the following:

1. Prior to further flight visually inspect the cabin heater shroud on the engine exhaust muffler to ensure it has not slipped off of the flanges.

a. If the shroud is tightly secured in its proper position, accomplish paragraph 2 of this AD.

b. If the shroud is not in its proper position, visually inspect the muffler for signs of chafe marks below the shroud flange and immediately replace the muffler if chafe marks are present.

c. If the shroud is loose but in its proper position, visually inspect the muffler for signs of chafe marks below the shroud flange. If there are no chafe marks, accomplish paragraph 2 of this AD prior to further flight.

2. Within 10 hours time-in-service after the effective date of this AD:

a. Remove the shroud, visually inspect the muffler can and, unless already accomplished, trim the shroud flange as shown in Figure 1.

b. Reinstall the shroud and drill a No. 36 (.107) hole in each end of the shroud and muffler flange and insert a #6, 7/16 inch long steel sheet-metal screw in each hole as shown in Figure 1. CAUTION: Place a metal strip below the muffler flange prior to drilling through the flange to prevent damage to the muffler can.

3. The inspection portion of paragraph 1.a. of this AD may be accomplished by the holder of at least a private pilot certificate issued under Part 61 of the Federal Aviation Regulations on any airplane owned or operated by that person provided the airplane is not used in air carrier service.

4. The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

5. Within forty-eight (48) hours after compliance with this AD, notify, in writing, the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209 of any defects found during AD compliance. One acceptable means of making these reports is Malfunction or Defect Reports (FAA Form 8010). (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174).

6. Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program, FAA, Room 238, Mid-Continent Airport, Terminal Building No. 2299, Wichita, Kansas 67209; Telephone (316) 942-4285.

This amendment becomes effective on April 6, 1981, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated February 27, 1981, and is identified as AD 81-05-05.

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

It has been determined that this regulation is an emergency regulation under the President's memorandum of January 29, 1981. Further, this regulation does not meet the criteria for a major rule as defined in Section 1(b) of Executive Order 12291. This regulation imposes a one-time inspection of a serious unsafe condition.

Note.—The FAA has determined that this document involves a regulation which is not significant under 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 FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 20, 1981.

John E. Shaw,

Acting Director, Central Region.

BILLING CODE 4910-13-M

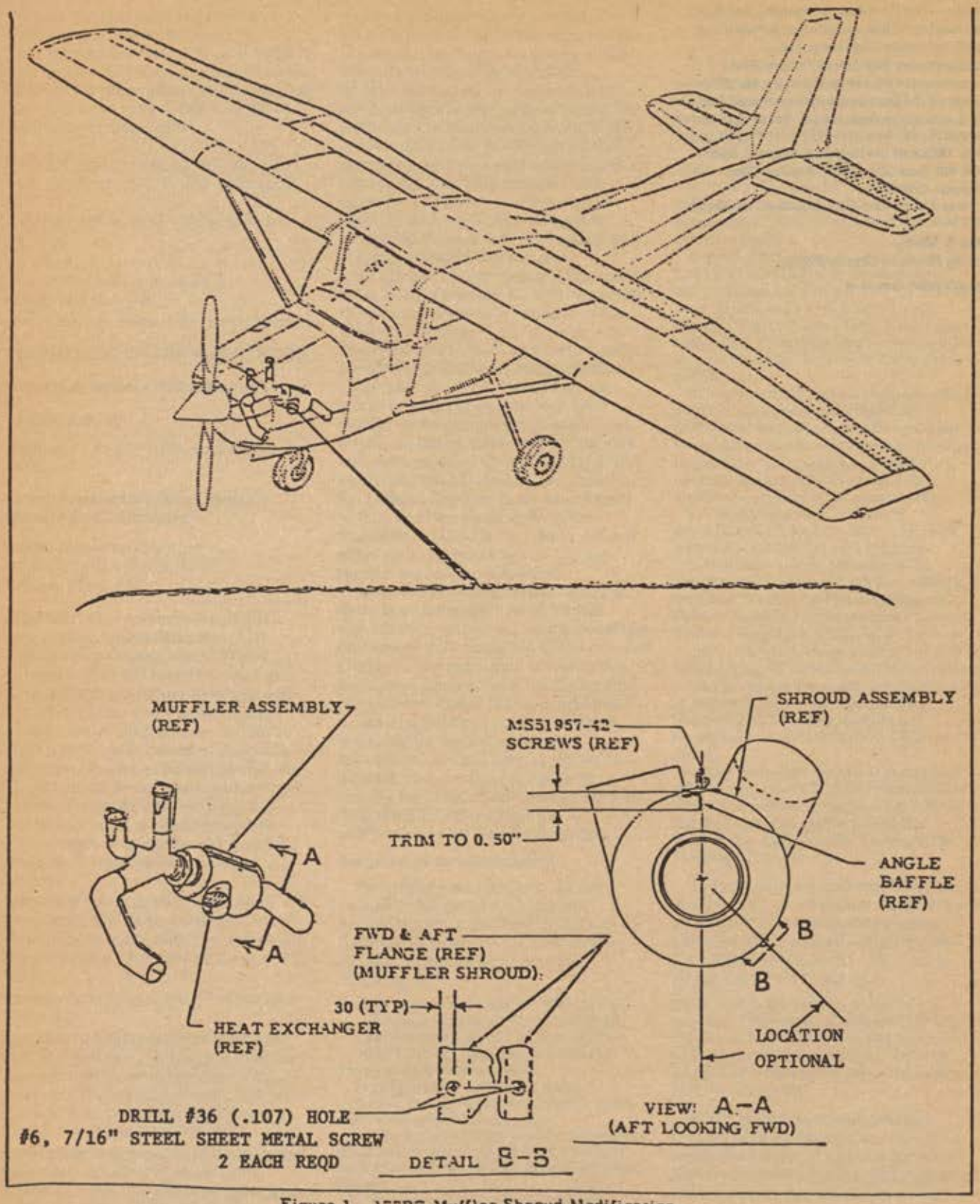

Figure 1. 172RG Muffler Shroud Modification.

[FR Doc. 81-9421 Filed 3-27-81; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 73

[Airspace Docket No. 80-AGL-49]

Special Use Airspace; Amendment to Restricted Area R-6904A and R- 6904B, Volk Field, Wis.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This action changes the designated time of use to more accurately reflect actual usage requirements of the using agency and will result in more flexible and efficient military-civil joint use of the affected airspace. The need for night training activities dictates providing the flexibility for these operations by authorizing activation of the restricted area when the need actually arises rather than on a continuous basis. This will permit civilian and nonparticipating aircraft to use the area when the area is not being used for its special use airspace purposes.

DATES: Effective date—June 11, 1981. Comments must be received on or before April 29, 1981.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Great Lakes Region, Attention: Chief, Air Traffic Division, Docket No. 80-AGL-49, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves flight requirements affecting the safe and efficient utilization of the navigable airspace that need effectivity for the next charting of the affected area (on June 11th) and thus was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 73.69 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to change the designated time of use for Restricted Areas R-6904A and B from "Continuous, sunrise to sunset" to "Sunrise to 1900 local time. Other times by NOTAM." Section 73.69 of Part 73 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981 (46 FR 829). This change more accurately reflects the occurrence of occasional lulls in military activity during which time the airspace is made available to the controlling agency for use by nonparticipating aircraft and provides a NOTAM provision to accommodate the military's night training requirement.

Under the circumstances presented, the FAA concludes that there is an immediate need for an amendment to a regulation to improve the safe and efficient utilization of the navigable airspace and provide timely changes in the affected aeronautical charts. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is impractical.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.69 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (46 FR 829), is amended, effective 0901 GMT, June 11, 1981, as follows:

1. Under R-6904A Volk Field, Wis., Time of designation., delete the words "Continuous, sunrise to sunset." and substitute for them the words "Sunrise to 1900 local time. Other times by NOTAM."

2. Under R-6904B Volk Field, Wis., Time of designation., delete the words "Continuous, sunrise to sunset." and substitute for them the words "Sunrise to 1900 local time. Other times by NOTAM."

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

Note.—The FAA has determined that this regulation is not a major rule under Executive Order 12291, nor a significant rule under DOT Regulatory Policies and Procedures, 44 FR 11034, since this action only involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current. The anticipated impact is so minimal that it does not warrant preparation of a regulatory evaluation.

The FAA has also determined that this regulation is an emergency regulation and not a major rule under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately in order to insure safety.

Issued in Washington, D.C., on March 20, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-9419 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 93 and 159

[Docket No. 19948, Amdt. Nos. 93-42 and 159-24]

Metropolitan Washington Airports

AGENCY: Federal Aviation Administration (FAA)/Department of Transportation (DOT).

ACTION: Notice of deferral of effective dates of final rules.

SUMMARY: Notice No. 81-4 requested comments on a proposal to delay the effective date of the Metropolitan Washington Airports Policy and implementing regulations (45 FR 62397; September 18, 1980) in order to enable the Secretary to review its provisions, in light of Executive Order 12291 (46 FR 13193; February 19, 1981), and in view of the Department's inability to complete the permanent rulemaking on slot allocation at Washington National Airport (45 FR 71236; October 27, 1980). Comments received on Notice No. 81-4 have substantiated the reasons stated for the proposal, and the effective date of the Policy and rules will accordingly be delayed until October 25, 1981. Any changes to the existing Policy will be developed by July, 1981.

DATE: The effective date of the amendments to 14 CFR 93 and 159 is delayed until October 25, 1981.

FOR FURTHER INFORMATION CONTACT: Edward S. Faggen, Counsel (703) 557-8123, Metropolitan Washington Airports, Federal Aviation Administration,

Washington National Airport, Hangar 9, Washington, D.C. 20001.

Background

On March 5, DOT/FAA published Notice No. 81-4 (46 FR 15458), requesting comments by March 19 on a proposal to delay the effective date of the Metropolitan Washington Airports Policy and implementing regulations. The Policy and regulations (Amendments 93-37 and 159-20) were to guide the future operation and development of Washington National and Dulles International Airports (45 FR 62398; September 18, 1980) and were scheduled to become effective on January 5, 1981. The Department of Transportation and Related Agencies Appropriations Act, 1981, Pub. L. 96-400, provides that none of the funds appropriated in the Act may be used to mandate any reduction of the number of certificated air carrier slots per hour at Washington National Airport below the number authorized on September 12, 1980, before April 26, 1981. As a result of that law and a decision of the Secretary of Transportation, the FAA postponed the effective date of Amendments 93-37 and 159-20 (Amendments 93-38 and 159-22; 45 FR 71251; October 27, 1980). A new effective date of April 26, 1981, was established for all provisions of the Policy.

Notice 81-4 gave five reasons for delaying the effective date of the Policy once again:

1. Executive Order 12291 (46 FR 13193; February 19, 1981) established new government-wide standards for the issuance rules and required that "major" rules issued but not yet in effect as of February 17 be suspended or postponed while undergoing reconsideration under the Order

2. At my confirmation hearing, at the request of members of the Senate Commerce Committee, I agreed to undertake a review of the Policy. That review is now under way.

3. An additional rulemaking to determine whether to permit quieter aircraft to operate after curfew hours has not been issued. If the Policy were imposed on April 26, commuter air carrier flights operating in the early morning and late evening hours would be barred.

4. Provisions of the Policy shifting four operating slots per hour from scheduled air carriers to commuter air carriers and redefining the commuter air carrier category have made agreement in the air carrier and commuter air carrier scheduling committees almost impossible, thus necessitating DOT action to allocate slots if the Policy were not delayed.

5. The Department's rulemaking on a permanent method of slot allocation at National Airport (45 FR 71236; October 27, 1980) has not yet been completed. This means that the Department does not have an adequate means of allocating slots in the event the scheduling committees fail to agree on slot distribution for the summer (April 26-October 24) season.

The Airline Scheduling Committee, upon receipt of the Notice proposing a delay, undertook a hypothetical allocation of 40 slots per hour for the hours 7 a.m. to 10 p.m., as permitted by the existing rule, and successfully resolved a schedule. Thus we know that slot allocation at National will not require Departmental action if the Policy is delayed.

Public Comment

Over forty comments were received in response to the Notice. For the most part, commenters restated their positions on the Policy itself: community groups, local governmental bodies, and local Congressional representatives, expressing varying degrees of satisfaction with it, urged that it be permitted to take effect as scheduled; air carriers and cities that desire more service to National urged that the Policy be delayed.

Some commenters urged an interim Policy incorporating their favored provisions. Eastern Air Lines, consistent with a petition for rulemaking it had previously filed with the FAA, asked that widebody aircraft be permitted to operate at National immediately. New York Air, also consistent with a petition it had filed, sought an exemption from the High Density Rule for flights in the Northeast Corridor. These petitions will be dealt with on an individual basis; they will not be addressed here.

The City of New Orleans and the Chamber-New Orleans & the River Region asked that the perimeter rule, which would permit non-stop flights of 1,000 miles from National, take effect as scheduled. The City of Houston repeated its allegations that such a perimeter rule is unlawful. Imposition of the perimeter rule separate from the rest of the Policy provisions would be inappropriate. In the meantime, perimeter restrictions are maintained by informal agreement, not by Departmental regulation.

Commenters also expressed conflicting views on the applicability of Executive Order 12291, consistent with their views on whether the Policy should be delayed. The Department has not yet determined whether the implementing rules should be classified as "major" under the Order, but it is clear in any event that, even if the Department decides that they are not, the Office of Management and Budget must be given an opportunity to review the question. A delay in the effective date is needed to provide sufficient time to answer this question.

In sum, the comments received have not led us to change our position on any of the five reasons originally stated for amending the effective date of the Metropolitan Washington Airports Policy and implementing regulations. Accordingly, the effective dates are amended to October 25, 1981. The Policy will be reviewed over the next several months, and any changes to it that may be developed will be published in July.

Immediate Effectiveness

This amendment will obviate major schedule adjustments by the scheduled air carriers and commuter air carriers, avoiding serious disruption and uncertainty of service at National Airport and resultant inconvenience to the traveling public. Therefore, it would be contrary to the public interest to delay its issuance. It will therefore take effect March 30, 1981.

Adoption of the Amendment

In order to provide adequate time to review the Policy, for an additional rulemaking on the curfew to be conducted, and for the scheduling committees to implement their present tentatively agreed-upon schedules for the summer season, effective March 30, 1981, the effective dates of the Metropolitan Washington Airports Policy (45 FR 62397; September 18, 1980) and Amendments 93-37 and 159-20 (45 FR 62406; September 18, 1980), as amended by Amendments 93-38 and 159-22 (45 FR 71251; October 27, 1980) are further amended to October 25, 1981.

(Secs. 103, 307 (a), (b), and (c), and 313(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1303, 1348 (a), (b), and (c) and 1354(a)); Secs. 2 and 5 of the Act for the Administration of Washington National Airport, 54 Stat. 686, as amended by 61 Stat. 94; Sec. 4 of the Second Washington Airport Act, 64 Stat. 770; Sec. 6 of the Department of Transportation Act (49 U.S.C. 1655))

Note.—This change of effective dates is not a significant regulation under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C. on March 24, 1981.

Andrew L. Lewis, Jr.,

Secretary of Transportation.

[FR Doc. 81-9633 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4a

Classification, Declassification and Public Availability of National Security Information; Correction

AGENCY: Office of the Secretary, Commerce.

ACTION: Final rule; Correction.

SUMMARY: This document corrects the effective date of a final rule relating to the classification, declassification and public availability of national security information published at 46 FR 16251, March 12, 1981.

FOR FURTHER INFORMATION CONTACT: Alan F. Brown, 202-377-1722.

SUPPLEMENTARY INFORMATION: The effective date of 15 CFR Part 4a as revised in FR Doc. 81-7640 published at 46 FR 16251, March 12, 1981, third column, was incorrectly listed as September 1980. The correct effective date should be September 4, 1980.

William H. Randolph,

Director, Office of Investigations and Security, U. S. Department of Commerce.

[FR Doc. 81-6884 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-BX-M

15 CFR Part 19

Federal Interaction With Voluntary Standards Bodies; Procedures

AGENCY: Assistant Secretary of Commerce for Productivity, Technology and Innovation, Department of Commerce.

ACTION: Deferral of effective date of final rule.

SUMMARY: The Procedures on Federal Interaction with Voluntary Standards Bodies were published at 46 FR 1574, January 6, 1981 to become effective February 5, 1981. In response to President Reagan's Memorandum of January 29, 1981, the effective date of these procedures was postponed until March 30, 1981 by notice of rulemaking published at 46 FR 11657, February 10, 1981. The effective date is being further postponed until April 29, 1981 to allow time to complete a rulemaking proceeding on the issues of (1) whether the procedures should be suspended indefinitely pending reexamination, and (2) whether the procedures should be allowed to have interim effect while they are under review. See FR Doc. 81-9525 in Proposed Rules section of this issue.

EFFECTIVE DATES: The effective date of 15 CFR Part 19 is deferred until April 29, 1981. This amendment is effective March 27, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Robert B. Ellert, Acting Assistant Secretary for Productivity, Technology and Innovation, Room 3859, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5394; or Mr. Donald M. Malone, Deputy Assistant General Counsel for Productivity, Technology and Innovation, Room 3859, Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5394.

SUPPLEMENTARY INFORMATION: The Department of Commerce issued, on December 31, 1980 Part 19 of Title 15, entitled "Federal Interaction With Voluntary Standards Bodies; Procedures." This part appeared in the **Federal Register** for January 6, 1981. These procedures were issued in response to Section 7a(1)(a) of OMB Circular A-119, entitled "Federal Participation in the Development and Use of Voluntary Standards". In response to President Reagan's Memorandum of January 29, 1981 entitled, "Postponement of Pending Regulations", the effective date of the procedures was postponed to March 30, 1981 (see 46 FR 11657, February 10, 1981).

During the period of postponement ordered in the President's Memorandum of January 29, 1981, comments were received questioning the appropriateness of the procedures. A decision has therefore been made to reexamine these procedures, insofar as there is lawful discretion to do so. A notice of proposed rulemaking appears in this issue in the proposed rules section (FR Doc 81-9525). That notice proposes to suspend the procedures for an indefinite period of time while they are being reexamined, and further proposes that they be permitted to go into effect on an interim basis during the period of reexamination. To allow time for completion of the rulemaking proceeding initiated by that notice, the effective date of the procedures is being extended for an additional 30 days until April 29, 1981.

Effective date of this amendment: March 27, 1981.

Issued: March 25, 1981.

Robert B. Ellert,

Acting Assistant Secretary for Productivity, Technology and Innovation.

1. The preamble to FR Doc 81-254, published at 46 FR 1574, January 6, 1981 is amended by revising the effective date caption in the first column to read "Effective Date: April 29, 1981."

§ 19.5 [Amended]

2. The first sentence of § 19.5 of Title 15 of the Code of Federal Regulations (46 FR 1574, 1579) is amended to read as follows:

This subpart shall become effective on April 29, 1981.

[FR Doc. 81-9524 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

15 CFR Parts 935 and 936

Channel Islands and Point Reyes-Farallon Islands National Marine Sanctuaries; Partial Suspension of Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of deferral of effective date of final rules; request for comments.

SUMMARY: The majority of the regulations issued pursuant to the designations of the Channel Islands and Point Reyes-Farallon Islands national marine sanctuaries will become final as originally scheduled (15 CFR Parts 935 and 936). However, those provisions which would directly prohibit or have the effect of prohibiting hydrocarbon development within each Sanctuary will be suspended for an additional period of 30 days during which NOAA will consider whether to further suspend the regulations or make them effective on an interim basis while they are being reconsidered in accordance with Executive Order 12291. This reconsideration will involve an analysis of the costs and benefits to the nation which would result from imposing prohibitions on hydrocarbon activities in addition to the controls imposed under the Outer Continental Shelf Lands Act and other Federal statutes and may take up to six months.

DATES: The provisions in §§ 935.6, 935.7 and 936.6 which would directly prohibit or have the effect of prohibiting hydrocarbon development are suspended until April 30, 1981.

Comments on whether they should continue to be suspended or thereafter be made effective on an interim basis are requested for a period of 15 days from publication in the **Federal Register** (April 14, 1981). Comments on the substantive issues involved in the analysis of the regulations will be accepted until June 30, 1981.

ADDRESS: Send comments to: Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster, telephone (202) 634-4236.

SUPPLEMENTARY INFORMATION: Regulations pursuant to the designation of the Channel Islands National Marine Sanctuary were published on October 2, 1980 (45 FR 65198). Regulations for the designation of the Point Reyes-Farallon Islands National Marine Sanctuary were published on January 26, 1981 (46 FR 7936).

In accordance with Section 302(h)(2) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1432(h)(2), (the Act) each set of regulations provided that they would not become effective until the expiration of a period of 60 calendar days of continuous session of Congress from the date of their transmittal to Congress, concurrent with publication. Under Section 302(h) of the Act, this period is broken by an adjournment *sine die* and tolled by an adjournment of either House of more than three days to a day certain.

The Congressional review period was still running for both sets of regulations on January 29, 1981, when President Reagan ordered a 60-day suspension of pending regulations. In response to this order, NOAA amended the regulations to provide that they would become effective on March 30, 1981, or upon the expiration of the 60-day Congressional period, whichever date was later (46 FR 14741, March 2, 1981). Assuming no further adjournments, the Channel Islands regulations will become effective on March 30, 1981, and the Point Reyes-Farallon Islands regulations on April 5, 1981.

On February 17, 1981, the President issued Executive Order 12291 directing Federal agencies to further suspend or postpone the effective dates of any pending "major" regulation to the extent permitted by law in order to reconsider the regulation in accordance with the objectives of the Executive Order and prepare a Regulatory Impact Analysis. A major regulation is defined as one "likely to result in:

"1. An annual effect on the economy of $100 million or more;

"2. A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

"3. Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets."

A Federal agency's initial determination is whether a regulation meets these criteria. The only regulations in either Sanctuary which might meet these criteria are § 935.6 limiting or prohibiting hydrocarbon exploration, development, and production activities in the Channel Islands Sanctuary, § 935.7 to the degree that it has the effect of limiting or prohibiting hydrocarbon activities in the Channel Islands Sanctuary, and § 936.6 limiting or prohibiting hydrocarbon exploration, development and production activities within the Point Reyes-Farallon Islands Sanctuary.

In response to the President's Executive Order, NOAA will be reviewing in depth these proposed hydrocarbon development prohibitions in the two sanctuaries. NOAA has examined the issues in considerable detail already to satisfy Executive Order 12044, the predecessor to Executive Order 12291. However, NOAA will be reexamining them in light of Executive Order 12291 (46 FR 13193, February 19, 1981) and determining whether the prohibitions meet the criteria for "major" regulations and, in any event, whether they are consistent with the general requirements of section 2 of this Executive Order including the requirement that the potential benefits to the Nation outweigh the potential costs. Comments on these issues are invited until June 30, 1981.

Reconsideration will take up to six months. Therefore, NOAA will determine whether to allow the hydrocarbon regulations to become effective on an interim basis during the balance of the period of reexamination. The other option is to suspend the regulations pending completion of our review. Comments on the issue of interim effectiveness versus suspension are requested for a period of fifteen days. Comments on the substantive issues connected with reconsideration will be requested again in a subsequent notice prior to April 30, 1981, announcing whether the relevant regulations will continue to be suspended or will be made effective on an interim basis.

Dated: March 25, 1981.

Donald W. Fowler,

Deputy Assistant Administrator for Coastal Zone Management.

[FR Doc. 81-9555 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

Issued: March 24, 1981.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: April 1, 1981.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8500.

SUPPLEMENTARY INFORMATION:

In the matter of publication of prescribed incremental pricing acquisition cost threshold of the NGPA of 1978; order of the Director, OPPR.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the

beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of April 1981, is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Table I—Incremental Pricing Acquisition Cost Threshold Prices

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Calendar Year 1980												
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580
Calendar Year 1981												
Incremental Pricing Threshold	$1.891	$1.908	$1.925	$1.942								
NGPA Section 102 Threshold	2.667	2.698	2.729	2.761								
NGPA Section 109 Threshold	1.957	1.975	1.993	2.011								
130% of No. 2 Fuel Oil in New York City Threshold	7.610	[1] 7.960	8.260	9.010								

[1] The $7.960 figure reflects the correct pricing threshold for high cost natural gas, effective February 1, 1981.

[FR Doc. 81-9477 Filed 3-27-81; 8:45 am]

BILLING CODE 6450-85-M

18 CFR Part 292

[Docket No. RM81-2; Order No. 135]

Eligibility, Rates, and Exemptions for Qualifying and Utility-Owned Geothermal Small Power Production Facilities

Issued: March 23, 1981.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission hereby adopts a final rulemaking regarding eligibility, rates, and exemptions for qualifying and utility-owned geothermal small power production facilities. The Order implements the Energy Security Act amendments to the Federal Power Act and the Public Utility Regulatory Policies Act of 1978 concerning geothermal small power production facilities by amending Part 292 of the Commission's rules. Except with respect to the Public Utility Holding Company Act, this rulemaking implements the Energy Security Act amendments, only as they relate to geothermal small power production facilities of which a utility own less than 50 percent.

EFFECTIVE DATE: May 1, 1981.

FOR FURTHER INFORMATION CONTACT: Glenn Berger, Office of the General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033, or

Michael Kessler, Office of the General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

In the matter of small power production and cogeneration facilities—eligibility, rates, and exemptions for qualifying and utility-owned geothermal small power production facilities.

On November 6, 1980, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR)[1] which proposed rules to implement section 643 of the Energy Security Act of 1980 (ESA).[2] The ESA amended the Federal Power Act (EPA) and the Public Utility Regulatory Policies Act of 1978 (PURPA) by adding provisions relating to geothermal small power production. Except with respect to the Public Utility Holding Company Act (PUHCA) (15 U.S.C. 79), this rulemaking implements the ESA amendments only as they relate to geothermal small power production facilities of which a utility owns less than 50 percent. The ESA amendments relating to utility-owned geothermal small power production facilities will be the subject of a subsequent rulemaking.

I. Background

Section 201 of PURPA authorizes the Commission to prescribe rules under which small power production facilities and cogeneration facilities can obtain "qualifying" status and thus become eligible for the rates and exemptions set forth in the Commission's rules implementing sections 201 and 210 of PURPA.[3] Section 643(a) of the ESA is intended to clarify the authority of the Commission to classify geothermal resources as a "primary energy source" for the purpose of eligibility as a qualifying small power production facility under section 3(17)(A) of the FPA, as amended by section 201 of PURPA.[4]

Section 643(b) of ESA contains three amendments to section 210 of PURPA. Subsection 643(b)(1) amends section 210(a) of PURPA. Section 210(a) requires the Commission to prescribe rules necessary to encourage cogeneration and small power production. The ESA amendment to this section requires the Commission to prescribe rules to encourage "geothermal small power production facilities of not more than 80 megawatts capacity."

Section 643(b)(2) of ESA amends section 210(e)(1) of PURPA to authorize the Commission to exempt "geothermal small power production facilities of not more than 80 megawatts capacity" from the FPA, the PUHCA, and State laws and regulations respecting the rates or the financial or organizational regulation of electric utilities, if the Commission determines such exemption is necessary to encourage cogeneration and small power production. Under this amendment, the Commission's exemptive authority is no longer limited to "qualifying" geothermal small power production facilities. Therefore, the Commission may exempt utility-owned

[1] 45 FR 74934 (1980).

[2] Pub. L. No. 96-294, 94 Stat. 611 (1980).

[3] Order No. 69, 45 FR 12214 (Feb. 25, 1980). Order No. 70, 45 FR 17959 (Mar. 20, 1980).

[4] It is the Commission's position that, even before the ESA amendments, geothermal facilities were eligible for qualification as small power production facilities. This view is based on the legislative history of PURPA. 125 Cong. Rec. S. 17806 (daily ed. October 9, 1978) (remarks of Senators Durkin and Jackson). The conference report of the ESA indicates that the legislation does not intend "to cast the FERC's present regulations under section 3(17) into doubt by reason of this amendment." S. Rep. No. 96-824, 96th Cong., 2nd Sess. 312 (1980).

geothermal small power production facilities (UGSPPF) from these laws and regulations.

Prior to amendment, section 210(e)(2) of PURPA limited the Commission's authority to exempt qualifying small power production facilities to those with a capacity of 30 megawatts or less.[5] Section 643(b)(3) of ESA increases the limit to "80 megawatts for a qualifying small power production facility using geothermal energy as the primary energy source * * *." Thus, the Commission may exempt any qualifying small power production facility using geothermal energy as the primary energy source from the laws and regulations specified in section 210(e)(1) of PURPA.

The NOPR also discussed exempting UGSPPFs from the laws, and regulations specified in section 210(e)(1) of PURPA, as well as extending the "avoided cost" rate to such facilities pursuant to section 210(a). Public comments addressing this proposal generally supported the exemption of UGSPPFs from the PUHCA. Comments were divided, however, regarding exemption of UGSPPFs from the remaining laws and regulations. In order to have more time to consider the latter comments, the Commission has decided to implement the ESA amendments to the FPA and PURPA concerning geothermal small power production in two rulemakings.

This rule implements the ESA amendments to the FPA and PURPA concerning qualifying geothermal small power production facilities. It also exempts UGSPPFs from the PUHCA. In a subsequent rulemaking the Commission will consider further the implications of exempting UGSPPFs from the FPA, and certain State laws. The Commission does not yet reach the issue of extending the "avoided cost" rate principals to such facilities.

The Commission received thirteen comments in response to the NOPR in this docket and has considered all the comments in the formulation of the final rule.

II. Section-by-Section Analysis

§ 292.204 *Primary energy source.*

Section 3(17)(A) of the Federal Power Act, as amended by section 201 of PURPA, defines a "small power production facility" as a facility which produces energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof, and which has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts. The amendment contained in section 643(a)(1) of ESA states that geothermal resources are an eligible primary energy source for small power production facilities.

Section 292.204 of the Commission's rules sets forth criteria for qualifying small power production facilities. To reflect the changes required by section 643(a)(1) of ESA, the Commission is amending this section of its rules to make it clear that small power production facilities using geothermal resources as a primary energy source can be qualifying facilities. This change appears in § 292.204(b)(1)(i), where "geothermal resources" is added to the list setting forth the eligible primary energy sources of a qualifying small power production facility.

§ 292.202 *Definitions.*

The Commission is amending § 292.202 of its rules by adding a new paragraph (o) which defines "utility geothermal small power production facility" (UGSPPF) as a small power production facility which uses geothermal energy as the primary energy source, and of which more than 50 percent is owned either (1) by an electric utility, electric utility holding company or any combination thereof, or (2) by any company 50 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by an electric utility, electric utility holding company, or any combination thereof.

The proposed rule defined a "utility geothermal small power production facility as a * * * facility * * * of which an electric utility * * * owns more than 50 percent of the outstanding voting securities." Several commenters noted that it is not the facility which issues securities. The commenters correctly pointed out that a UGSPPF is an asset of a corporation, and it is the corporation which issues securities. The Commission agrees with the commenters and has redefined a UGSPPF to reflect the ownership arrangements between a utility and a geothermal small power production facility.

§ 292.601 *Exemption of qualifying facilities from the Federal Power Act.*

This section implements section 210(e)(2) of PURPA as amended by section 643(b)(3) of ESA. The ESA permits the Commission to exempt qualifying small power production facilities of up to 80 megawatts capacity using geothermal resources from regulation under the FPA, the PUHCA, and from State laws and regulations respecting rates or the financial or organizational regulation of electric utilities.

Section 292.601 of the Commission's rules is amended by increasing the size limitation for exemptions from the FPA from 30 to 80 megawatts for qualifying small power production facilities using geothermal energy as a primary energy source.

Under the proposed rule a UGSPPF was added to the definition of "qualifying facility" and thus was eligible for exemption from the FPA, the PUHCA, and from State laws and regulations respecting rates or the financial or organizational regulation of electric utilities. The proposed rule also discussed extending the "avoided cost" rate benefits of section 210(a) to a UGSPPF.

The comments filed by the State regulatory authorities and non-utility owners regarding this provision opposed extending the rate and exemption benefits to UGSPPFs. Some of these commenters argued that the Commission lacks the statutory authority to extend the PURPA section 210 benefits to utility-owned geothermal facilities. Utility companies and affiliated associations, on the other hand, generally favored the proposed rule.

The Commission believes it has the statutory authority under ESA to grant a UGSPPF all the exemptions under section 210(e) that a qualifying facility may obtain. Due to the overwhelming response of the State regulatory authorities, however, the Commission is withholding the exemptions from the FPA and State law at this time so it may further consider the implications of granting such exemptions. The Commission does not yet reach the issue of rate benefits pursuant to section 210(a).

Avoided Cost

Commenters noted that in some areas of the country the full "avoided cost" rate benefits are not needed to encourage geothermal small power production. The commenters suggest that, if the appropriate State regulatory authority determines that a rate less than avoided cost is sufficient to encourage rapid commercial development of geothermal small power production, the State regulatory authority should have the ability to set a lower rate for purchase.

[5] Small power production facilities between 30 and 80 megawatts which use biomass as a primary energy source are exempt from the Public Utility Holding Company Act, and from State laws respecting the (wholesale) rates or financial or organizational regulation. See § 292.602 of the Commission's rules.

The Commission has considered this suggestion during its original rulemaking proceeding on cogeneration and small power production.[6] Some comments received during the original rulemaking recommended that, as a matter of policy, a State regulatory authority or non-regulated utility be given the discretion to establish the relationship between avoided cost and rate for purchases.

The Commission in § 292.304 of its rules decided to set the rate for purchases at full avoided cost. The Commission continues to believe that such a rate for purchase is necesssary to encourage cogeneration and small power production as required by section 210 of PURPA. A State regulatory authority is not precluded, however, from petitioning the Commission for a waiver of § 292.304 pursuant to § 292.403 of the Commission's rules.

§ 292.602 Exemption of qualifying facilities from the Public Utility Holding Company Act and certain State law and regulation.

This section is amended in paragraph (b) by adding a "utility geothermal small power production facility" to the types of facilities which shall not be considered to be an electric utility company as defined in section 2(a)(3) of the PUCHC, 15 U.S.C. 79(b)(a)(3). Furthermore, the Commission is extending the exemption from the PUHCA for qualifying small power production facilities using geothermal energy from 30 to 80 megawatts.

The applicability of § 292.602 includes those facilities described in § 292.601(a) of the Commission's rules. Therefore, the exemption of qualifying small power production facilities of 80 megawatts or less using geothermal energy as a primary energy source is accomplished by the change to § 292.601(a) described above.

The Commission notes that the Securities and Exchange Commission (SEC) has issued a final rule, entitled "Rules Exempting Certain Acquisition by Electric Utility Companies and Exempting Such Companies as 'Holding Companies'."[7] The SEC adopted Rule 14, which exempts from the requirements of sections 9(a)(2) and 10 of PUHCA the acquisition by one or more electric utility companies of the securities of a power supply company. The SEC also adopted Rule 15 which provides an exemption from regulation as a "holding company" under section 3(a)(2) of the PUHCA for an electric utility company that makes any such acquisitions.

The grant of exemption in Rule 14 by the SEC would, however, require: (1) authorization to acquire voting securities by "the regulatory authorities having jurisdiction over the rates and service" of the parent utility; (2) the subsidiary generating company to supply all of the electricity it generates to its parent company or companies (with certain noted exceptions); and (3) that the issuance of securities by the generating company be "expressly authorized by a regulatory authority having jurisdiction over its rates and service."[8]

As indicated, the exemption under section 210(e) of PURPA eliminates the basis for the SEC's jurisdiction over acquisition and ownership of "qualifying" facilities or a UGSPPF. By excluding a UGSPPF from the definition of "electric utility company" under section 2(a)(3) of PUHCA, the Commission's rules eliminate the SEC's jurisdiction under section 9(a)(2) of PUHCA, thus rendering moot the exemption available under the SEC's Rules 14 and 15, as it pertains to geothermal facilities of 80 megawatts capacity or less.[9]

Environmental Conclusions

The Commission issued in June 1980, a draft environmental impact statement (DEIS) on rulemakings implementing sections 201 and 210 of PURPA. In the DEIS, the Commission determined that PURPA-induced development of geothermal small power production facilities would not create significant environment effects. In compliance with the National Environmental Policy Act of 1969 (NEPA), the Commission examined the environmental effects associated with these rules and has issued a Final Supplemental Environmental Impact Statement (EIS).[10]

The EIS accompanying this Order describes the environmental effects associated with the PURPA-induced development of small power production facilities using geothermal energy as a primary energy source. PURPA-induced development is anticipated in the near term for California, Nevada, and Idaho and may occur in other states in the West.

The revised rules under PURPA are expected to stimulate the development of up to 1,200 megawatts of electrical capacity from geothermal facilities by 1995. This is 1,100 megawatts more than predicted in the DEIS which the Commission prepared for the original rulemakings implementing sections 201 and 210 of PURPA.

The EIS found that geothermal resource development represents a relatively clean energy source and that increased geothermal development will reduce the adverse environmental impacts associated with nuclear and fossil fuel cycles.

III. Effective Date

These rules are effective May 1, 1981.

(Energy Security Act, Pub. L. No. 96-294, 94 Stat. 611 (1980) Public Utility Regulatoy Policies Act of 1978, 16 U.S.C. 2601, *et seq.*, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 *et seq.*, Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*, Department of Energy Organization Act, 42 U.S.C 7101 *et seq.*, 12009, 42 FR 46267)

In consideration of the foregoing, the Commission amends Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 292.204 is amended by revising paragraph (b)(1)(i) to read as follows:

§ 292.204 Criteria for qualifying small power production facilities.

* * * * *

(b) *Fuel Use.* (1)(i) The primary energy source of the facility must be biomass, waste, renewable resources, geothermal resources, or any combination thereof, and 75 percent or more of the total energy input must be from these sources.

* * * * *

2. Section 292.202 is amended by adding a new paragraph (o), to read as follows:

§ 292.202 Definitions.

* * * * *

(o) "Utility geothermal small power production facility" means a small power production facility which uses geothermal energy as the primary energy resource and of which more than 50 percent is owned either:

(1) By an electric utility, electric utility holding company or any combination thereof; or

[6] 45 FR 12214, 12221 (Feb. 25, 1980).

[7] 46 FR 5867 (1981).

[8] *Id.* The exemptions are intended to facilitate joint ownership of conventional base-load generation plants, but also have application to non-conventional base-load generation plants.

[9] This approach is similar to the exemption from PUHCA contained in section 9 of the Pacific Northwest Electric Power Planning and Conservation Act (S. 885), which would exempt a "generating company" from the definition of an electric utility company in PUHCA. The SEC has indicated its support, in principle, for that exemption.

[10] Western Regional, Final Supplemental Environmental Impact Statement, Small Power Production and Cogeneration Facilities—Eligibility, Rates and Exemptions for Qualifying and Utility-Owned Geothermal Small Power Production Facilities, Docket No. RM81-2, February 1981.

(2) By any company 50 percent or more of the outstanding voting securities of which of which are directly or indirectly owned, controlled, or held with power to vote by an electric utility, electric utility holding company, or any combination thereof.

3. Section 292.601 is revised to read as follows:

§ 292.601 Exemption to qualifying facilities from the Federal Power Act.

(a) *Applicability.* This section applies to qualifying facilities, other than those described in paragraph (b).

(b) *Exclusion.* This section does not apply to a qualifying small power production facility with a power production capacity which exceeds 30 megawatts, if such facility uses any primary energy source other than geothermal resources.

(c) *General rule.* Any qualifying facility described in paragraph (a) shall be exempt from all sections of the Federal Power Act, except:

(1) Section 1–18, and 21–30;

(2) Sections 202(c), 210, 211, and 212;

(3) Sections 305(c); and

(4) Any necessary enforcement provision of Part III with regard to the sections listed in paragraphs (c)(1), (2) and (3) of this section.

4. Section 292.602 is amended by revising paragraph (b) to read as follows:

§ 292.602 Exemption to qualifying facilities from the Public Utility Holding Company Act and certain State law and regulation.

* * * * *

(b) *Exemption from the Public Utility Holding Company Act of 1935.* A qualifying facility described in paragraph (a) or a utility geothermal small power production facility shall not be considered to be an "electric utility company" as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(3).

* * * * *

[FR Doc. 81-9494 Filed 3-27-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 655 and 656

Withdrawal of Regulations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of withdrawal of regulations.

SUMMARY: On February 4, 1981, pursuant to a memorandum from the President, the Department of Transportation postponed the effective dates of all Department of Transportation regulations covered by the President's directive. The Federal Highway Administration, having reviewed its regulatory actions so postponed, is by this notice, withdrawing two of those rules. The specific regulations covered by this notice are set forth below.

EFFECTIVE DATE: March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley H. Abramson, Deputy Assistant Chief Counsel for Legislation and Regulations, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday; telephone number (202) 426-0762.

SUPPLEMENTARY INFORMATION: On January 29, 1981, a memorandum was issued by the President which, among other things, directs executive agencies to postpone for 60 days the effective dates of regulations which had been issued but were scheduled to become effective during that 60-day period. The Department of Transportation on February 4, 1981, pursuant to the President's memorandum, postponed the effective dates of all Department of Transportation regulations covered by the President's directive until March 31, 1981.

The purpose of this postponement was to afford the government an opportunity to review each of these regulations. The FHWA has conducted such a review and has decided, among other things, to withdraw the following two regulations:

1. 23 CFR 655, Traffic Control Devices on Federal-Aid and Other Streets and Highways, published at 46 FR 2038, January 8, 1981; and

2. 23 CFR 656, Carpool and Vanpool Projects, published at 46 FR 2298, January 8, 1981.

The withdrawal of these particular regulations at this time will provide the FHWA with the opportunity to reassess these rules and their impacts, as well as the agency's overall implementation of these programs, in the light of Executive Order 12291, Federal Regulation, issued by the President on February 17, 1981.

By withdrawing these regulations, the FHWA continues in effect all current requirements and provisions of the Code of Federal Regulations which these rules would have amended had they become effective. The Carpool and Vanpool Projects program will continue to be administered consistent with the legislative changes made to the predecessor demonstration program by section 126 of the Surface Transportation Assistance Act of 1978. The withdrawal of these regulations is without prejudice to such other action as the Administrator may take at a future time in this or any other rulemaking proceeding.

Inasmuch as both the rules subject to this withdrawal have already been the subject of public comment, additional notice and public procedure at this time is unnecessary. The FHWA's further review of these regulatory actions will include full consideration of the public comments received on each of these items. Also, as indicated in the Department's February 4 notice, the 60-day delay being a minimum period necessary to review the postponed rules, the FHWA believes that good cause exists for the immediate withdrawal of these two rules in order to afford the agency the opportunity to perform the comprehensive reassessment its review to date has indicated is necessary in these instances. Without an immediate withdrawal of these regulations they will go into effect upon expiration of the postponement on March 31.

Neither the rules as issued nor their withdrawal are major actions within the meaning of Executive Order 12291, nor are they significant within the meaning of the current DOT Order on Regulatory Policies and Procedures.

Accordingly, the following rules are hereby withdrawn:

1. 23 CFR 655, Traffic Control Devices on Federal-Aid and Other Streets and Highways, published at 46 FR 2038, January 8, 1981; and

2. 23 CFR 656, Carpool and Vanpool Projects, published at 46 FR 2298, January 8, 1981.

(Executive Order 12291; 23 U.S.C. 101(e), 109(d), 114(a), 146, 217, 315, 402(a); section 126 of the Surface Transportation Assistance Act of 1978 (Public Law 95-599, 92 Stat. 2689); 23 CFR 1204.4; and 49 CFR 1.48(b))

(The Catalog of Federal Domestic Assistance Program Number of both these programs is number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to these programs)

Issued on: March 24, 1981.

R. A. Barnhart,

Federal Highway Administrator.

[FR Doc. 81-9498 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-80-M

Urban Mass Transportation Administration

23 CFR Parts 450 and 630

49 CFR Part 613

[FHWA Docket No. 80-24, Notice 3]

Urban Transportation Planning; Deferral of Effective Date

AGENCIES: Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice of deferral of effective date of final rules.

SUMMARY: On February 4, 1981, pursuant to a January 29 memorandum from the President, the Department of Transportation postponed the effective dates of all Department of Transportation regulations which had been published as final rules but had not yet taken effect. The Federal Highway Administration and Urban Mass Transportation Administration, having reviewed their regulatory actions so postponed, are, by this notice, further postponing the Urban Transportation Planning; Transportation Improvement Program regulation published at 46 FR 5702, January 19, 1981.

DATES: The effective date of the amendments to 23 CFR Parts 450 and 630, and to 49 CFR Part 613 is deferred until June 30, 1981. This document is effective March 30, 1981.

FOR FURTHER INFORMATION CONTACT: FHWA: Stanley H. Abramson, Office of the Chief Counsel, (202) 426-0762; or UMTA: John Collins, Office of the Chief Counsel, (202) 426-1908, both located at 400 Seventh Street, SW., Washington, D.C. 20590. FHWA office hours are from 7:45 a.m. to 4:15 p.m. ET and UMTA office hours are from 8:30 a.m. to 5:00 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 29, 1981, a memorandum was issued by the President which, among other things, directed executive agencies to postpone for 60 days the effective dates of regulations which had been issued but were scheduled to become effective during that 60-day period. The Department of Transportation on February 4, 1981, pursuant to the President's memorandum, postponed the effective dates of all Department of Transportation regulations covered by the President's directive until March 31, 1981.

The purpose of this initial postponement was to afford the government the opportunity to review these recently issued, but not yet effective, regulations. As a result of their reviews, the FHWA and UMTA have decided to postpone for another 90 days the effective date of the Urban Transportation Planning; Transportation Improvement Program regulation published at 46 FR 5702, January 19, 1981. By so postponing this regulation, the FHWA and UMTA continue in effect all current requirements and provisions of the Code of Federal Regulations this rule would have amended had it become effective.

Before the end of the additional 90-day review period, the FHWA and UMTA intend to issue a final rule with a request for comment which would allow those provisions of the postponed rule which would reduce red tape and provide for streamlining to go into effect. In addition, the rule would update the existing joint FHWA/UMTA regulations to include recent legislative changes.

The FHWA and UMTA have determined that the initial 60-day postponement has provided an inadequate amount of time to make a decision concerning appropriate revisions to the postponed rule. The agencies believe that good cause exists for further postponing the effective date of this regulation and that such postponement is in the public interest. The postponed rule has been the subject of extensive public comment. Further review of the postponed rule by FHWA and UMTA will include full consideration of the public comments received. For these reasons and because this regulation would otherwise go into effect without this action, additional notice and public participation on this change of effective date is impracticable, unnecessary, and contrary to the public interest and good cause exists for making this postponement effective immediately.

Neither the rule as issued nor its postponement are major actions within the meaning of Executive Order 12291.

Accordingly, the effective date of the following rule is postponed until June 30, 1981:

Urban Transportation Planning; Transportation Improvement Program (23 CFR 450, 630; 49 CFR 613) published at 46 FR 5702, January 19, 1981.

(Executive Order 12291; 23 U.S.C. 101(e), 104(f)(3), 134, and 315; Secs. 3, 5, and 8 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602, 1604, and 1607); Secs. 110, 172, 174, and 176 of the Clean Air Act; and 49 CFR 1.48(b) and 1.51)

(Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Research, Planning, and Construction; 20.500, Urban Mass Transportation Capital Grants; 20.501, Urban Mass Transportation Capital Improvement Loans; and 20.507, Urban Mass Transportation Capital and Operating Assistance Formula Grants. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to these programs)

Issued on: March 25, 1981.

R. A. Barnhart,
Federal Highway Administrator.

Robert H. McManus,
Acting Urban Mass Transportation Administrator.

[FR Doc. 81-9641 Filed 3-27-81; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Parts 52, 53

36 CFR Part 7

43 CFR Parts 9, 2090, 2200, 2210, 2220, 2230, 2240, 2250, 2260, 2270, 2300, 2310, 2320, 2340, 2350, 2920

50 CFR Part 17

Extension of Effective Dates for Final Rules; Request for Comments

AGENCY: Department of the Interior.

ACTION: Extension of effective dates for final rules with request for comments.

SUMMARY: The Department of the Interior is extending the effective date of rules issued in final form but not yet in effect to permit reconsideration of the rules under Executive Order 12291. The Department is also requesting comments on whether the rules listed are major under Executive Order 12291.

DATES: For the new effective dates, see Supplementary Information. This extension is effective March 30, 1981. Comments must be received on or before April 9, 1981.

ADDRESSES: Written comments should be sent to Deputy Associate Solicitor, Division of General Law, Department of the Interior, 18th and C Streets NW., Room 6514, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Moody R. Tidwell III, Deputy Solicitor, 202-343-4813; Timothy S. Elliott, Deputy Associate Solicitor—Division of General Law, 202-343-4722.

SUPPLEMENTARY INFORMATION: The President's Memorandum of January 29, 1981 directed Federal agencies to extend the effective dates of regulations issued in final form but not yet in effect for a

60-day period. In notices published February 4, 1981 (46 FR 10707) and February 17, 1981 (46 FR 12496), the Department of the Interior extended the effective dates of the regulations listed below to March 30, 1981. Executive Order 12291, issued by the President on February 17, 1981 (published 46 FR 13193, February 19, 1981), directed agencies to suspend or postpone the effective dates of all major rules that had been promulgated in final form but had not yet become effective to the extent necessary to permit reconsideration of the rules in accordance with the Order. The Department of the Interior is further extending the effective dates of the rules listed below to the dates indicated to allow the Department sufficient time to determine whether the rules are major and to comply with the terms of the Order.

Rule	Date published and FR page	Effective date
Bureau of Indian Affairs 25 CFR Parts 52, 53. Tribal government elections.	Jan. 7, 1981, 46 FR 1668, 1674.	Apr. 30, 1981.
National Park Service 36 CFR Part 7. Glacier Bay National Monument.	Dec. 30, 1980, 45 FR 85741.	Apr. 30, 1981.
Bureau of Land Management 43 CFR Subpart 2091 of Part 2090, Parts 2200, 2210, 2220, 2230, 2240, 2250, 2260, 2270. Exchanges of Land; procedures.	Jan. 6, 1981, 46 FR 1634.	Apr. 15, 1981.
Bureau of Land Management 43 CFR Parts 2090, 2300, 2310, 2320, 2340, 2350. Federal land withdrawals; procedures.	Jan. 19, 1981, 46 FR 5794.	Apr. 15, 1981.
Bureau of Land Management 43 CFR Parts 9, 2920. Land use: leases, permits, and easements.	Jan. 19, 1981, 46 FR 5772.	Apr. 15, 1981.
Fish and Wildlife Service 50 CFR Part 17. Endangered and threatened species.	Jan. 13, 1981, 46 FR 3178, 3184 (2 documents).	Apr. 30, 1981.
Fish and Wildlife Service 50 CFR Part 17. Endangered and threatened species.	Jan. 19, 1981, 46 FR 5730.	Apr. 30, 1981.

The Department is requesting public comment on whether the rules listed are major under Executive Order 12291. Written comments must be sent to the address given above within ten days.

Dated: March 25, 1981.

William L. Kendig,

Deputy Assistant Secretary.

[FR Doc. 81-9521 Filed 3-27-81; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 817

Credit Unions; Removal of Regulations

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by removing Part 817, Credit Unions. This rule is removed because of limited applicability to the general public. The intended effect is to insure that only regulations which substantially affect the public be maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: March 19, 1981.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, phone (202) 697-1861.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR, Chapter VII, is amended by removing Part 817.

Authority: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 81-9479 Filed 3-27-81; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 77-087]

New York Vessel Traffic Service; Clarification of Effective Date

AGENCY: Coast Guard, DOT.

ACTION: Clarification of effective date.

SUMMARY: On September 24, 1979, the effective date of the Coast Guard rule establishing operating procedures for the New York Vessel Traffic Service (VTS) was deferred indefinitely (44 FR 55005). The Department of Transportation issued a notice on February 4, 1981 (46 FR 10706) postponing the effective date of several Coast Guard rules, including the New York VTS rule, until March 31, 1981. The New York VTS rule will not become effective March 31, 1981 and remains suspended indefinitely.

FOR FURTHER INFORMATION CONTACT: Lieutenant Kenneth E. Johnson, Project Attorney, Office of the Chief Counsel (G-LRA/33), Room 3314, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-1534.

SUPPLEMENTARY INFORMATION: On August 2, 1979, the Coast Guard published a rule establishing the operating procedures for the New York Vessel Traffic Service (VTS) (44 FR 45381). The rule was to become effective on September 18, 1979. Delays in installation and construction of certain equipment related to VTS operation necessitated postponement of the rule. Accordingly, the Coast Guard deferred the effective date of the rule indefinitely (44 FR 55005, September 24, 1979). A new effective date was to have been published in the **Federal Register** when a firm completion date became known.

The Department of Transportation issued a notice on February 4, 1981 (46 FR 10706) postponing the effective date of all pending department regulations until March 31, 1981. The postponement notice applied to all pending department regulations that would have become effective between January 30, 1981 and March 31, 1981. The New York VTS rule was included in the list of Coast Guard regulations affected because it was a pending rule, even though it was not to become effective prior to March 31, 1981. This inclusion on the list of postponed regulations has created the potential for confusion as to the effective date for the New York VTS rule.

The New York VTS operating procedures rule remains suspended indefinitely. The rule will not become effective on March 31, 1981. The delays in construction and installation of certain equipment related to VTS operations still exist. Estimates of completion dates for this equipment are very tentative. An effective date for this rule will be published in the **Federal Register** when a firm completion date is known.

Accordingly, the effective date of §§ 161.501-161.582 of Title 33, Code of Federal Regulations remains deferred until further notice.

(33 U.S.C. 1221 et seq.; 49 CFR 1.46(n)(4))

Dated: March 30, 1981.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 81-9629 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 1

Privacy Act Exemption

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration is amending its regulation to permit the implementation of general and specific exemptions of the Privacy Act of 1974. Currently, for example, investigations conducted by the Office of Inspector General are seriously hampered when the subject of an investigation requests, under the Privacy Act, access to any and all information that the Inspector General has regarding him or her. Amendment of the regulation would allow the Veterans Administration to implement the exemptions for specified Privacy Act systems of records, thereby preventing subjects of an investigation from interfering with or frustrating the investigatory process, preventing disclosure of investigative techniques, and maintaining the Veterans Administration's ability to obtain necessary information from third-party sources by protecting the confidentiality of a source's identity.

EFFECTIVE DATE: This regulation is effective March 13, 1981.

FOR FURTHER INFORMATION CONTACT: Barbara Shea, (202) 389-3431 or 389-3928.

SUPPLEMENTARY INFORMATION: On page 77050 of the **Federal Register** of November 21, 1980, there was published a notice of proposed regulatory development to amend regulations concerning 5 U.S.C. 552a(j) and (k). Interested persons were given 60 days in which to submit written comments, suggestions, or objections regarding the proposed amendment. No written comments were received and the proposed regulation is hereby adopted without change and is set forth below.

Approved: March 13, 1981.

Rufus H. Wilson,

Acting Administrator.

In 38 CFR Part 1, § 1.582 is revised to read as follows:

§ 1.582 Exemptions.

Certain systems of records maintained by the Veterans Administration are exempted from the provisions of the Privacy Act in accordance with exemptions (j) and (k). (5 U.S.C. 552a(j) and (k)). The systems of records which are within the (j) and (k) exemptions are identified in the VA Privacy Act system of records notice.

(38 U.S.C. 210(c))

[FR Doc. 81-9331 Filed 3-27-81; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 4

[CGD 76-170]

Casualty Reporting Requirements; Correction

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule; correction.

SUMMARY: This document corrects an erroneous reference contained in an interim final rule published on November 24, 1980, at 45 FR 77439 relating to casualty reporting requirements.

FOR FURTHER INFORMATION CONTACT: CDR H. T. Blomquist, Office of Merchant Marine Safety (G-MMI/24) Room 2407, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593 (202) 426-1455.

Accordingly, the Coast Guard is correcting the reference in the last line of paragraph 4.01-3(b), which was printed at the top of the second column at 45 FR 77441 on November 24, 1980, to read "under §§ 4.05-1(d) or 4.05-1(e)," vice "under §§ 4.05-5(d) or 4.05-5(e)."

Dated: March 24, 1981.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 81-9540 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-14-M

Urban Mass Transportation Administration

49 CFR Parts 639 and 640

[Docket Nos. 80-A and 80-B]

Stockpiling of Buses and Bus Rehabilitation Grant Program; Postponement of Pending Regulations

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of Postponement of Pending Regulations.

SUMMARY: The Urban Mass Transportation Administration (UMTA) issued regulations describing the Stockpiling of Buses and the Bus Rehabilitation grant programs on January 13, 1981, and January 19, 1981, respectively. President Reagan directed that the effective dates of these regulations be postponed until March 31, 1981, so that they could be reviewed to determine if they were necessary. UMTA has completed this review and proposes to withdraw these rules and instead to issue non-regulatory policy statements on each topic. To afford the public an opportunity to comment on the proposed withdrawal, the rules are being further postponed for 45 days. That action is more fully discussed in the Proposed Rules section in this **Federal Register.**

DATE: The postponement of these rules for an additional 45 days until May 15, 1981, is effective on March 31, 1981.

FOR FURTHER INFORMATION CONTACT: John Collins, Assistant Chief Counsel for Legislation and Regulation, UCC-10, (202) 426-1906.

Accordingly, the effective dates of the following regulations are postponed until May 15, 1981:

Title	Citation	Previously scheduled effective date
Stockpiling of Buses (UMTA Docket 80-B) 49 CFR pt. 639.	46 FR 5480; Jan. 19, 1981.	Mar. 31, 1981.
Bus Rehabilitation Program (UMTA Docket 80-A) 49 CFR pt. 640.	46 FR 9662; Jan. 29, 1981.	Mar. 31, 1981.

Authority: 49 U.S.C. 1602 and 1604; 23 U.S.C. 103 and 142; 49 CFR 1.51.

Issued in Washington, D.C. on March 26, 1981.

Carole Foryst,

Acting Administrator, UOA-1, Urban Mass Transportation Administration.

[FR Doc. 81-9715 Filed 3-27-81; 9:37 am]

BILLING CODE 4910-57-M

Research and Special Programs Administration

49 CFR Part 172

[Docket No. HM-145C Amdt. No. 172-66]

Listing of Hazardous Materials

Correction

In FR Doc. 81-8340 appearing on page 17738 in the issue of Thursday, March 19, 1981, on page 17749, a list was inadvertently omitted and should have appeared as set forth below:

Chemicals listed by EPA under Section 112 of the Clean Air Act

*Benzene

Mercury

Radionuclides

Vinyl chloride

BILLING CODE 1505-01-M

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-174; Amdt. Nos. 173-145, 179-27]

Shippers; General Requirements for Shipments and Packagings; Correction

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation.

ACTION: Correction to final rule.

SUMMARY: This document corrects an error in the final rule issued under Docket HM-174 (46 FR 8005; January 26, 1981) by allowing the use of Specification 112A tank cars for transportation of dimethylamine, monomethylamine and trimethylamine until July 1, 1982.

EFFECTIVE DATE: This rule will become effective on March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Leavitt A. Peterson, Office of Safety, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-0897.

SUPPLEMENTARY INFORMATION: This correction is necessary because the above named flammable gases were not specifically identified as being affected by the final rule issued under Docket HM-144 (43 FR 30057; July 13, 1978). When the final rule under HM-174 was published, all 112A tank car entries were modified to reflect changes for all tank cars used to transport flammable gases. This change affected approximately 66 tank cars used to transport methylamine gases which do not meet the tank head puncture resistance or thermal protection requirements of regulations issued under HM-144. In order to rectify this situation by allowing sufficient time to retrofit these tank cars, MTB is authorizing the use of 112A tank cars for the transportation of methylamine gases until July 1, 1982.

Regulatory Impact

This correction has been determined not to be a major rule under the provisions of Executive Order 12291 since it relieves a burden on industry by allowing sufficient time to retrofit certain tank cars, as required by the corrected final rule, without interrupting the transportation of certain hazardous materials.

Under the terms of the Department's Notice of Postponement of Pending Regulations, dated February 4, 1981 (46 FR 10706), the effective date for the applicable provisions of the rules issued under HM-174 was established as March 31, 1981. Without this rule, the tank cars affected by this rule would be in violation of those provisions as of that date, and the rail movement of the affected materials would be interrupted, causing a severe burden on shippers and consumers of methylamine gases. Therefore, the MTB has determined that this rule responds to an emergency situation under Section 8(a)(1) of Executive Order 12291 since it is impracticable to follow the provisions of the Order with respect to the rule. There is insufficient time prior to the March 31 effective date to allow for the full 10-day review period required by Section 3(c)(3) of the Order for rules other than major rules.

In consideration of the foregoing, Part 173 of Title 49 Code of Federal Regulations is amended as follows:

1. In § 173.314(c), the table is amended and Note 27 is added to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(c) * * *

Kind of gas	Maximum [1]	Required tank car [2]
* * *	*	* *
Dimethylamine, anhydrous.	59	DOT106A500X.
	62	DOT105A300W, Notes 4, 23 and 26.
	61	DOT112T340W, 112J340W, Notes 26 and 27.
* * *	*	* *
Monomethylamine, anhydrous.	60	DOT106A500X.
	62	DOT105A300W, Notes 4, 23 and 26.
	61	DOT112T340W, 112J340W, Notes 4, 26 and 27.
* * *	*	* *
Trimethylamine, anhydrous.	57	DOT106A500X.
	59	DOT105A300W, Notes 4, 23 and 26.
	58	DOT112T340, 112J340W, Notes 26 and 27.

[1] Permitted filling density, Note 1.
[2] See § 173.31(a)(2) and (3).

* * * * *

Note 27.—Specification 112A tank cars may be used until July 1, 1982.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, Appendix A to Part 1.)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 and does not require a Regulatory Impact Analysis, nor does it require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). I certify that this document will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation and an environmental assessment are available for review in the docket.

Issued in Washington, D.C. on March 23, 1981.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 81-9498 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-60-M

Federal Highway Administration

49 CFR Part 395

[BMCS Docket No. 91; Amdt. No. 80-2]

Hours of Service of Drivers; Test Program of Alternative Methods to Driver's Logs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of expiration date of test program.

SUMMARY: This action extends from April 1, 1981 to April 1, 1983, the period during which participating carriers may use modified carrier documents in lieu of the driver's log. A description of the test program of alternative methods to driver's logs is contained in BMCS Docket No. MC-91; Notice No. 80-2, published in the **Federal Register** April 28, 1980 (45 FR 28243) revised by Notice No. 80-5, published in the **Federal Register** July 17, 1980 (45 FR 48015).

EFFECTIVE DATE: March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Bureau of Motor Carrier Safety, (202) 426-9767; or Mr. Gerald M. Tierney, Office of the Chief

Counsel, (202) 426-0346, Federal Highway Administration, Department of Transportation, 400 7th St. SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: In a continuing effort to reduce the paperwork burden on motor carriers operating in interstate or foreign commerce the Federal Highway Administration (FHWA) is permitting selected motor carriers and their drivers to use either modified tachograph charts or a modified carrier document to record driver's hours of service as an alternative to the present logs on an experimental basis. This document grants participants in the test program continued permission to use alternative methods to record driver's hours of service in lieu of the driver's log. Participating carriers are named in the above referenced Notice No. 80-5.

The test program is being conducted under contract by Chilton Company, Radnor, Pennsylvania, which provides a limited exemption for the participating carriers from the provisions of §§ 395.8 and 395.9 of the Federal Motor Carrier Safety Regulations, requiring drivers to prepare a specified daily log.

The test program is being conducted to reduce driver and motor carrier burden and to determine the evidentiary value and economic feasibility of monitoring driver compliance with the hours of service rules by means other than the log.

This document is being issued to permit continued use of the alternative methods pending receipt of the final report of the test program and any rulemaking action that will be conducted to permit public comment on any proposed method developed as a result of the test program.

This amendment is being issued in final form without notice and opportunity to comment because it is not anticipated that such action would result in the receipt of useful information. The anticipated economic impact of this extension and the test program provided for is so minimal as to not require preparation of a full regulatory evaluation at this time. Should the test program indicate that revisions of a permanent nature should be considered to the current log requirements, those revisions will be the subject of further evaluation.

The Federal Highway Administration has determined that this document contained neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation.

Accordingly, §§ 395.8(t)(4) and 395.9(x) of Title 49, Code of Federal Regulations, are amended by removing the words "before April 1, 1981" each time they appear and by adding in lieu thereof the words "before April 1, 1983".

(49 U.S.C. 304, 49 CFR 1.48, and 49 CFR 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: March 25, 1981.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 81-9520 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-22-M

Urban Mass Transportation Administration

49 CFR Part 642

[Docket No. 80-W]

Urban Initiatives Grant Program Requirements; Withdrawal of Regulation

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of withdrawal of regulation.

SUMMARY: The Urban Mass Transportation Administration (UMTA) issued a regulation describing the requirements for the Urban Initiatives grant program on January 19, 1981. President Reagan directed that the regulation be postponed until March 31, 1981, so that it could be reviewed to determine if it were necessary. UMTA had completed that review and has decided to withdraw the regulation.

EFFECTIVE DATE: March 31, 1981.

FOR FURTHER INFORMATION CONTACT: John J. Collins, Assistant Chief Counsel for Legislation and Regulation, Urban Mass Transportation Administration, UCC-10, 400 7th Street, S.W., Washington, D.C. 20590; Telephone: (202) 426-1906.

SUPPLEMENTARY INFORMATION: UMTA issued a regulation describing the requirements for the Urban Initiatives grant program on January 19, 1981 (46 FR 5820). Pursuant to President Reagan's January 29, 1981, memorandum, the Secretary of DOT postponed the effective date of this regulation until March 31, 1981 (46 FR 10706; February 4, 1981). The President ordered the postponement of this and all other final rules that were not yet effective to give his Administration the opportunity to review and assess the need and burden of each.

UMTA has reviewed the final rule on the Urban Initiatives Program and has decided to withdraw it. There are expected to be no further Urban Initiatives grant competitions because of budgetary constraints. Therefore, this regulation is unnecessary. Completion of those projects already initiated under the program can be completed under existing Section 3 authority and would not require a regulation.

UMTA is issuing this withdrawal without giving the public the opportunity for notice and comment. Public comment on the withdrawal of this regulation is unnecessary in light of the fact that there are expected to be no further Urban Initiative grant competitions.

In addition, the withdrawal of this regulation is effective immediately. If this were not so, the pending final rule would become effective on March 31, 1981. UMTA believes, therefore, that good cause exists for making this withdrawal effective immediately.

The withdrawal of this regulation is without prejudice to such other action as the UMTA Administrator may take at a future time in this or any other rulemaking proceeding. UMTA has determined that this regulation is not a "major rule" as that term is defined in Executive Order 12291.

Accordingly, the following regulation is withdrawn:

Title	Citation	Previously scheduled effective date
Urban Initiatives (UMTA Docket 80-W), 49 CFR 642.	46 FR 5820; Jan. 19, 1981.	Mar. 31, 1981

(49 U.S.C. Secs. 1602(a)(1)(D) and 1603(c)(1)(B); and 49 CFR 1.51)

Issued in Washington, D.C. on: March 26, 1981.

Carole Foryst,

Acting Administrator, UOA-1, Urban Mass Transportation Administration.

[FR Doc. 81-9600 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-57-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1031A

[Ex Parte No. 389]

Procedures for Requesting Rail Variable Cost and Revenue Determinations for Joint Rates Subject to Surcharge or Cancellation

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of interim rule and interim with request for comment.

SUMMARY: The Commission has determined that its original interim rule published on November 3, 1980 (45 FR 72665) which set forth interim procedures for requesting rail variable cost and revenue determinations for joint rates subject to surcharge or cancellation is not consistent with the intent of Section 217 of the Staggers Rail Act of 1980. This notice replaces that interim rule and the notice of availability of cost and revenue information dated October 27, 1980. The Commission believes that this substitute rule better reflects the intent of Congress to provide a relatively simple procedure that can be used easily by shippers and carriers to adduce relevant revenue and variable cost data. This new interim rule shall be effective immediately, pending final rules.

DATES: These interim rules are effective March 30, 1981. Comments should be filed on or before April 29, 1981.

ADDRESS: An original and 15 copies of comments shall be sent to: Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION:

Background

Section 217 of the Staggers Rail Act of 1980, Rail Act added a new Section 10705a to Subchapter IV of Title 49 of the United States Code. This substantially modifies the Interstate Commerce Act with respect to joint rates, revenue divisions, and surcharges. In general, it allows carriers to apply a surcharge increasing or reducing a joint rate or to cancel the application of a joint rate, without the concurrence of the other participating carriers.[1] The purpose of Section 10705a is to provide an immediate, albeit only partial, remedy to the revenue shortfall that results when a carrier's revenue division of a joint rate fails to cover the carrier's costs of providing the service associated with the joint rate.

Section 10705a(a) permits surcharges under certain circumstances. For example, surcharges may be applied only to routes that were subject to all general increases published during the previous year. Similarly, a given route may be surcharged only once a year. Most importantly, a surcharging carrier must apply the surcharge in equal dollar amounts to all routings (including single-line movements) in which it participates between the points covered by the joint rate.

Section 10705a also provides affected parties with mechanisms to limit the level of earnings generated by a surcharge. In particular, it permits other carriers participating in the joint rate to file tariffs cancelling application of the surcharge to the route(s) in which protestant participates if it can show that the surcharging carrier, before the surcharge, was earning at least 110 percent of its variable costs for its share of the movement involved. It also permits cancellation of the surcharge if the protesting carrier can show, among other things, that a higher division of revenue or a higher joint rate is available to the surcharging carrier.

Section 10705a also allows affected shippers and ports to request the Commission to cancel or reduce a surcharge when they can show that the surcharging carrier, with the surcharge, will earn more than 110 percent of its variable costs. Before such parties can obtain relief, however, they must also show that they have no competitive alternatives to the surcharged or canceled route.

The Original Rules

To assist opponents of surcharges in making the required showing with respect to the costs and revenues of surcharging carriers, Section 10705a(h) directs the Commission to furnish, upon request, the variable costs and revenues of the movements involved. To permit us to make the required computations, we issued interim regulations in this proceeding detailing the information that we would need from the parties. Those regulations, which have been effective for several months, require surcharging carriers to provide upon request, seven categories of detailed, shipment-specific data (*e.g.*, freight bills, actual distances involved, etc.).[2] Upon receipt of the information, the opponent of a surcharge is required to supply it to the Commission with its request for cost and revenue data.

The original notice reflected our belief that detailed, shipment-specific data were necessary to implement Section 10705a. Since we issued that notice, a number of surcharges have been filed. We have also received comments in response to that notice. It has become apparent that, the procedures we originally published seemingly shifted the burden of proof to the proponent and imposed burdensome and needless data production requirements on both shippers and carriers. For these reasons, we have concluded that our original rules are inconsistent with the Congressional intent and create unnecessary problems of data confidentiality and should be withdrawn.

It has also become clear as a result of our experience with surcharge proposals that our original approach is totally unworkable both for us and for the parties. We do not have the capability, given the five-day time limit, to cost an infinite number of specific movements or to determine a representative sample.[3] Furthermore, proponents should not be required to produce information that should already be available to potential protestants. Our original approach has resulted in unreasonable data requests of proponents by connecting carriers that have the same basic information in their possession. We also note that, to the extent a proponent is a bridge carrier, it will not have certain of the data that our earlier rules required them to provide (shipping documents, for instance). Protestants also should not be burdened with gathering information on scores of waybills or freight bills unrelated to their particular shipping requirements or be required to accurately sample their movements.

The comments of Barlett Agri Enterprises, Inc., and SRI, Inc., point out another problem associated with shipper receipt of actual movement data

[1] Throughout this notice, the terms "surcharge" and "joint rate cancellation" are used interchangeably. The same analysis applies to both. The interim rules apply to surcharges and joint rate cancellations proposed for a particular commodity(ies). They do not apply to proposals to surcharge all movements over particular routes under 10705a(b). A separate proceeding to define "reasonably expected costs," Ex Parte No. 402, has been instituted to address these situations.

[2] Questions have arisen in several recent surcharge proceedings as to what a surcharging carrier must do to comply with the present requirement that it provide information. The revised rules we are establishing will clearly set out the responsibilities of all parties involved.

[3] Rail Form A costing within five days, even under the substitute interim rule we are adopting, may be difficult or impossible if a great number of surcharges are filed at the same time. While we do not now propose to restrict filings, we will review the matter if and when problems arise.

from a surcharging carrier. These parties fear violation of Section 11910(d), which provides a penalty for knowing disclosure of confidential information tendered under Section 11165. This seems a legitimate concern.

The New Regulations

In view of the several difficulties associated with the original rules, we have decided to modify our approach. We are withdrawing our current interim rules and establishing a relatively simple new procedure under which an opponent of a surcharge will be required, along with its request for cost and revenue information, to supply the Commission with certain readily accessible information. The new rules are below. This information we will require will permit the Commission to make a relatively quick determination of costs and revenues, as required by the Rail Act.

The new approach contemplates the following process to arrive at the revenue/cost ratio we are to develop. For each challenged routing, a protestant would provide the Commission in writing with the following information:

(1) The amount of the surcharge.

(2) The tariff minimum weight.[4]

(3) The tariff rate applicable at the minimum weight, tariff reference, and applicable unit (e.g., per hundred weight).

(4) The relevant territorial division and the relevant intraterritorial subdivision (where applicable) as percentages. (Surcharging carriers must supply this information to protestants within 3 working days of a request.)[5]

(5) The car type or types in which the traffic normally moves (see Appendix C).

(6) The commodity description = STCC code. (Five-digit level)

(7) The class of traffic, i.e., interline or bridge.

(8) The number of intertrain and intratrain switches (if known).

(9) The origin, destination, interchanges, carriers used, and the short line distance on the surcharging or cancelling carrier's line (from the published distance tables[6] from or to the interchange point(s) at which the traffic is tendered.[7]

The protesting party must furnish the information in the format prescribed in Appendix A. As an alternative, the protesting party may elect to use our computer input sheets directly. The format of our "Ex Parte No. 389" computer input sheets and directions are contained in Appendix B. In addition, protesting shippers and ports must certify that there is no competitive alternative to the surcharged or canceled route(s). A one-sentence statement is all that is necessary. This requirement will ensure that shippers and ports do not request cost computations on movements until they have analyzed this issue. The certification will limit our cost computation role for shippers and ports to those cases where potential protestants believe no competitive alternatives exist. The certification will not take the place of detailed proof on this subject at the suspension level. A protesting carrier need not make this showing.

A proponent carrier only must provide a potential protesting shipper or port with revenue division data. This information need not be given to connecting carriers, as they already have it. When a shipper or port interest requests divisions information from a surcharging or cancelling carrier, it must provide the carrier with sufficient data to identify its movements, that is, the commodity, origin and destination, and the tariff reference. Using the information submitted by the protestants, the Commission will calculate the revenues and variable costs, and using a standard formula, will provide the information to the parties within 5 working days. It is crucial that parties understand that a surcharging carrier must apply the surcharge to all routes between the surcharged points. A protestant, however, can only challenge routings that actually affect its movements. Even if the protestant is successful in challenging the application of the surcharge to one or more specific routings, the remaining routes will still be subject to the surcharge.

Discussion

The focus of proceedings under Section 10705a is the development of a threshold revenue level for specific commodities. No surcharge can be successfully challenged unless it can be demonstrated that revenues to the surcharging carrier were at least 110% of variable costs at the time the surcharge was applied.[8] The intent of Section 10705a that surcharge proceedings be administratively prompt, simple to understand, and not needlessly costly to any party will be frustrated unless the revenue to variable cost determination is based on a standard formula. Realistically, this is the only way we can meet our 5-day statutory time limit, and resolve these matters in a way that is consistent with the Act.

The use of formula approach receives support from a number of sources. The legislative history of Section 217 states:

> The key to the success of these provisions will be the ease with which they may be implemented * * *.
>
> Administrative feasibility is also the reason the conferees have selected formula costs for use * * * and the conferees encourage the Commission not to permit cost debates to delay the policy of this Act * * *. H. Rep. No. 96-1430, 96th Cong., 2nd Sess. 112 (1980).

Congressmen Staggers, Florio, and Madigan state in a letter response to our earlier notice that calculations must be able to be made quickly if these new provisions are to work. They indicate that Section 10705a will not be workable "if controversies develop over the weights of the lading, the actual route of movement and the like."

In their comments on our original notice, Conrail and Southern Railway, who played major roles in drafting Section 10705a, provide detailed explanations of how they expected the costing to proceed. Both point out that

[4] The Bessemer and Lake Erie Railroad Company, Duluth, Missabe and Iron Range Railway Company, and Elgin, Joliet and Eastern Railway Company argue that tariff minimums are not always definite. They cite instances where they are stated as full capacity or 90% of marked capacity. The latter is easily determined. The former will require development by the potential protestant of an average figure.

[5] This information is confidential and the Commission will not release it. Shipper furnishing of this information to the Commission does not violate Section 11910(d). Further dissemination will subject shippers to possible prosecution.

[6] Southern points out that these tables are contained in tariffs (CR 9516, for Conrail; SFA 6201 for Southern Territory; SWL 6004, for Southwest territory; individual tariffs in Western territory) generally maintained by shippers.

[7] As the methodology uses short line mileages adjusted for circuity, we should point out that individual routes are distinguishable only to the extent they use different gateways. Actual mileage differences which may occur for routings using the same gateway(s) are not taken into account by this method. However, it is the choice of interchange points, rather than the choice of individual routings between the gateways, that results in the major inefficiencies. The methodology we are adopting allows us to account for those differences. If actual mileage could be made readily available costing could be more accurate without sacrificing expedience. We seek comment on this issue and will consider use of actual mileage when issuing final rules. If the railroads believe actual miles should be used, they should be willing to provide these figures to a potential protestant. Each set of routings between gateways and origins or destinations must be tested individually against this 110 percent criterion. Accordingly, we are requiring that protestants must submit the information required by these rules for each challenged routing. We will then use Rail Form A unit costs to compute the variable costs for each route and car type specified by a potential protestant.

[8] As noted, infra, a shipper need only show that the base rate with the surcharge will exceed 110%, whereas a connecting carrier must make its showing based on the rate prior to the surcharge.

the process is intended to be straightforward and is to be based on a formula approach using data available to all concerned. Basically, they anticipated that unadjusted Rail Form A cost data would be used to determine the revenue/variable cost ratio. These data are to be developed by: (1) multiplying the tariff minimum weight by the rate, adjusted by the surcharging carrier's division to produce its total revenue; and (2) developing standard Rail Form A costs on the basis of such factors as the car type, the commodity, the minimum weight, and the short line distance (adjusted for circuity) over each particular route to produce total cost. A number of other class I railroads support this approach.

Overall, we believe this approach, in contrast to our original one, is more consistent with the intent of the Congress. The focus would properly be on the general profitability of a specific commodity moving over a particular route, rather than the profitability of individual shipments that may or may not be representative. Our original notice could have produced different ratios for different shipments on the same route. It would also have placed an enormous data development and justification burden on all parties. The filings by protestants in surcharge proceedings to date support this conclusion.

We recognize that the data produced under this approach will be imprecise. For example, to the extent economies exist for different shipments in excess of the minimum weight, the ratio of revenue to variable cost calculated at the minimum weight may understate actual profitability of the movement to the surcharging carrier. On the other hand, the use of short line distance, even when adjusted for circuity, may understate the actual distance over a challenged routing. This would understate actual costs (and thus overstate the ratio).

Finally, subsections 10705a (k)(3) and (m)(3) support the use of tariff minimum weights and short line distances. Subsection 10705a(k)(3) gives proponents the option of using actual variable cost data rather than unadjusted Rail Form A data. Subsection 10705a(m)(3) authorizes use of actual revenue settlements, also at proponent's option. These alternatives can only mean that an approach other than one based on movement-specific data was contemplated for general use.[9]

We conclude that the formula approach to developing generalized cost data, as explained by Conrail, Southern Railway, and Congressmen Florio, Staggers, and Madigan, is the proper one. This approach meets the objectives of ease of implementation and administrative feasibility as set forth in the legislative history. Furthermore, the conferees on joint rate problems state explicitly that the 110% of variable cost figure is a minimum and is not intended as a maximum:

> The Conference substitute maintains the requirement that joint rates must be reasonable. The conferees intend that the rate standard for the reasonableness of joint rates shall be the same as for all rates. The establishment of the minimum compensatory joint rate relief in Section 217 of this Act is not intended to mean that such minimum levels relate to the maximum reasonable level for joint rates. A joint rate must be reasonable, as must the divisions of such a joint rate between carriers and the Commission should not interfere to require joint rates or any carrier's division of a joint rate to be maintained below the rate levels permitted by this Act. H. Rep. No. 96-1430, 96th Cong., 2nd Sess. 90 (1980).

Given the wide range between our jurisdictional threshold (the 160% floor) and the minimum standard contained in section 10705a, we believe that any minor distortion that may be produced by using the proposed formula approach is not sufficient for rejection of the methodology.

A number of comments were directed to the timing and method of the various requests for data. Mobile Transportation Rate Bureau, Inc., suggests that a proponent of a surcharge, when responding to a request from a potential protestant, simultaneously submit its response to the protestant and to the Commission. Arguably, this will help us meet our five-day time limit. We see no need for such a rule. The interim regulations published here have been formulated to impose minimal data requirements on all parties. Advance submission by a proponent will not assist the Commission's costing and revenue development process. Under the new rules a proponent only will be required to submit information on revenue divisions. This information, standing alone, will not expedite the costing process. Union Camp Corp. proposes that, given the short three and five day deadlines, we should require proponents, at the time of filing a surcharge, to notify all potential protestants. The Office of Special Counsel recommends that a proponent be required to submit all relevant data when filing the surcharge. Farmland Industries, Inc., suggest that a proponent be required to tender to a requestor all data relevant to the proposal and that it be gathered before filing. These proposals are also directed toward our original rules, which ostensibly place the responsibility of producing data on the surcharging carrier, and are no longer relevant in the context of the changes proposed herein. We do, however, seek comment on the suggestion that tariffs containing surcharges or cancellations include, on their title pages, the name and telephone number of the individual to contact for information to be provided under our rules.

We also sympathize with the American Paper Institute, Inc.'s concern that delays in transmitting information to potential protestants may leave them with no remedy. Interim rule 1031A.2(b) subjects surcharge tariffs to suspension and investigation and ultimate disapproval if the proponent carrier refuses to furnish the information required. We request comment on this and any other feasible remedy.[10]

We recognize that the statute does not integrate the five day limit with our protest procedure before the Suspension Board. The timetable contained in 49 CFR 1100.40 remains applicable. Protests are due 12 days before a proposed effective date; replies are due four days before the effective date. These proposals must be filed on 45 days' notice. While the 45 and five-day time periods may not be changed by us, we will permit requests for divisions data and responses thereto to be made in any written form (e.g., telegraph, messenger, etc.). This will eliminate unnecessary mail delays. Requests for our analysis of the data also must be in written form. However, after the five-day period requesting parties may pick up our analysis in Room 6331 if the requestor desires a quicker response. In response to the request of the Office of Special Counsel, we will, as indicated earlier, define the three and five day periods as workdays.

Upon receipt of a shipper or port protest that shows, for the challenged routing, that the proposed surcharge or joint rate cancellation results in a ratio

[9] We request comments as to how the scheme contemplated by Sections 10705a (k)(3) and (m)(3) can be appropriately integrated into the process established in these rules for general use. The former subsection applies only to challenges by Class III carriers. While we believe that other parts of section 10705a dealing with Class III carriers' special rights are self-explanatory, we will entertain comments if any interested party seeks further guidance.

[10] We have considered rejecting surcharge tariffs for failure to furnish information. We question whether failure to furnish information would render a tariff "an obvious nullity as a matter of law." See North Central Truck Lines, Inc. v. I.C.C., 559 F.2d 80,804 (D.C. Cir. 1977). However, we seek comment on rejection as an appropriate remedy.

of revenue to variable cost higher than 110 percent for the challenged route at the time the surcharge was imposed, we may order the rollback or cancellation of the item for only that routing as required by section 10705a(a)(3)(B). In their protests, shippers and ports must illustrate in detail any other rail routes and/or alternative modes available to them, and they must provide convincing evidence that available alternatives not subject to surcharge are not competitively feasible. This fact may not be assumed. As stated earlier, replies under 49 CFR 1100.40 are permitted and will be considered if timely filed.

Section 10705a of the Rail Act only authorizes the filing of surcharges for three years. As indicated earlier, several have aleady been published and more are expected. In light of the need to have rules immediately and the many problems that have arisen under the current interim rules, we are withdrawing them, and substituting the rules below. These rules will be effective pending final decision. Under the circumstances, we find there is good cause to make the rules effective on an interim basis on less than 30 days' notice.

This decision does not significantly affect either the quality of the human environment or conservation of energy resources.

Regulatory Flexibility: Certification of No Significant Adverse Effect

5 U.S.C. 603 requires that the Commission examine the impact of proposed rules on small business and other small entities. If proposed rules will have significant economic impact on a substantial number of small entities, the agency must prepare an initial and final regulatory flexibility analysis. If there will be no such impact, the agency need not prepare these analyses.

We do not believe the impact of these rules will be significant. The information to be developed by protestants is the minimum possible under the statute, and should be available in-house at little or no cost to small entities. In today's market, rail shippers usually have substantial knowledge of applicable rates and routings. These rules require only that this information be gathered and analyzed if the entity wishes to assess its chances for relief from a rate surcharge or joint rate cancellation.

We also believe that these rules will not affect a substantial number of small entities. The Interstate Commerce Act provides relief from surcharges or joint rate cancellations only to those protesting shippers or ports with no alternatives to that particular rail service. It seems highly unlikely that there is a substantial number of small entities entirely dependent upon a particular railroad's service. Furthermore, these surcharges and joint rate cancellations are selective in nature and will not apply to the vast majority of commodities moving by rail.

While we anticipate no significant adverse economic impact, we invite comment on this issue and our analysis of it. A copy of this interim rule will be given to the Chief Counsel for Advocacy of the Small Business Administration.

(49 U.S.C. 10321, 10705a, 5 U.S.C. 553.)

Decided: March 19, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

The current interim regulations in Part 1031A of Chapter X of Title 49 of the Code of Federal Regulations are withdrawn and a new Part 1031A is added to read as follows:

PART 1031A—PROCEDURES FOR REQUESTING SURCHARGE COSTS AND REVENUES FROM RAIL CARRIERS APPLYING A COMMODITY ORIENTED SURCHARGE OR CANCELLING THE APPLICATION OF A JOINT RATE PURSUANT TO 49 U.S.C. SECTION 10705a

Authority: 49 U.S.C. 10321, 10705a, 5 U.S.C. 553.

§ 1031A.1 Scope.

The provisions of this part apply only to rail carriers subject to the jurisdiction of the Commission under subchapter 1 of Chapter 105 of Title 49.

§ 1031A.2 Procedures.

(a) The surcharging or cancelling rail carrier is required to provide a shipper or port with its division of revenue within three working days of receipt of a request.

(b) If the request is not timely honored, the tariff will be suspended and investigated by the Commission, and ultimately disapproved.

(c) The Commission will furnish within five working days of a request, determinations of the variable cost of service and revenue of a rail carrier applying a surcharge or cancelling the application of a joint rate. A request must be route-specific and must include, for each surcharged rate or route to be cancelled:

(1) The amount of the surcharge.

(2) The tariff minimum weight.

(3) The tariff rate applicable at the minimum weight, tariff reference, and applicable unit (e.g., per hundred weight).

(4) The relevant territorial division and the relevant intraterritorial subdivision (where applicable) as percentages. Surcharging carriers must supply this information within three working days of request.

(5) The car type or types in which the traffic normally moves (see Appendix C).

(6) The commodity description—STCC code.

(7) The class of traffic.

(8) The number of intertrain and intratrain switches (if known).

(9) The origin, destination, interchanges, carriers used, and the short line distance of the surcharging or cancelling carrier's line (from the published distance tables) from or to the interchange point(s) at which the traffic is tendered.

(d) Along with any request for variable cost and revenue information, shippers and ports must certify to the Commission that they have no feasible transportation alternatives to the surcharged or cancelled routes.

Appendix A—Ex Parte No. 389 Data Format Sheet

1. Requesting party _____
2. Commodity description—STCC Code ____
3. Surcharging or cancelling railroad ____
4. Car type in which traffic normally moves _____
5. Car owner _____
   If private car, rental per mile ($) ____
6. Tariff minimum in tons _____
7. Tariff rate at minimum ($) _____
   Applicable unit _____
8. Territorial division (%) _____
   Intraterritorial subdivision (%) _____
9. Amount of surcharge ($) _____
10. Short line distance on surcharging or cancelling carrier's line _____
11. Number of intertrain and intratrain switches _____
12. Origin _____
13. Destination _____
14. Class of traffic (Originated, terminated or bridged) _____
15. Number of interchanges _____
16. Carriers involved in movement _____

BILLING CODE 7035-01-M

Appendix B

COMPUTER INPUT SHEET FOR RAILROAD COST PROGRAM (X389)

DATA APPLICABLE TO ALL MOVEMENTS LISTED BELOW

1. REQUESTED BY	2. MONTH/ DAY / YEAR
,	/ /

3. COMMODITY	RAILROAD PROPOSING SURCHARGE: 4. NAME OR INITIALS	RAILROAD PROPOSING SURCHARGE: COST ZONE	-----COST UPDATE INDEX----- 6. MONTH/YEAR	-----COST UPDATE INDEX----- 7. PERCENT
,	,	,	/ ,	.

8. CAR TYPE	9. CAR OWNER	10. PL CAR RENTAL (¢/loaded mile)	11. TARE TONS	12. CIR-CUITY	13. EMPTY RATIO	CLAIM PAYMENTS 14. (¢/net ton)
,	,	. ,	. ,	,	. ,	.

DATA FOR EACH ITEM IN REQUEST WITH ALL OF THE ABOVE FACTORS THE SAME

15. ITEM NO.	16. NET TONS	REVENUE PER CARLOAD: EXCL. SURCHARGE: TOTAL	REVENUE PER CARLOAD: EXCL. SURCHARGE: DIVISION	19. SURCHARGE	MOVEMENT ON RAILROAD PROPOSING SURCHARGE: LOADED CAR-MILES	MOVEMENT ON RAILROAD PROPOSING SURCHARGE: NO. I/I HANDLINGS	22. ORIGIN OR ON ROAD-JUNCTION	23. DESTINATION OR OFF ROAD-JUNCTION	TRAFFIC CLASS a/
NN	NNN.N	NNNN.NN	NNNN.NN	NNNN.NN	NNNN.N	N.N	MAXIMUM 22 ALPHA	MAXIMUM 22 ALPHA	N
,	,	17. ,	18. ,	,	20. ,	21. ,	,	,	24.

NO COMMAS SHOULD BE ENTERED EXCEPT THOSE SHOWN IN BOLD INK ON THIS FORM. a/ 1= Local; 2= Interline; 3= Bridge

*Requesting parties should fill in items 1, 3, 4, 8, 9, 10, and 15 through 24.

COMPUTER INPUT SHEET FOR RAILROAD COST PROGRAM (Y389)

DATA APPLICABLE TO ALL MOVEMENTS LISTED BELOW

REQUESTED BY	MONTH/	DAY	/ YEAR
TP INC,	/	/	

COMMODITY	RAILROAD PROPOSING SURCHARGE: NAME OR INITIALS	COST CODE	COST UPDATE INDEX: MONTH/YEAR	PERCENT
WRAPPING PAPER,	CR,	,	/ ,	. ,

CAR TYPE	CAR OWNER	FL CAR RENTAL (¢/loaded mile)	TARE TONS	CIR-CUITY	EMPTY RATIO	CLAIM PAYMENTS (¢/net ton)
BXGU,	RR,	. ,	. ,	,	. ,	.

DATA FOR EACH ITEM IN REQUEST WITH ALL OF THE ABOVE FACTORS THE SAME

ITEM NO.	NET TONS	REVENUE PER CARLOAD: EXCL. SURCHARGE: TOTAL	DIVISION	SURCHARGE	MOVEMENT ON RAILROAD PROPOSING SURCHARGE: LOADED CAR-MILES	NO. I/I HANDLINGS	ORIGIN OR ON ROAD-JUNCTION	DESTINATION OR OFF ROAD-JUNCTION	TRAFFIC-CLASS a/
NN	NNN.N	NNNN.NN	NNNN.NN	NNNN.NN	NNNN.N	N.N	MAXIMUM 22 ALPHA	MAXIMUM 22 ALPHA	N
1,	10.0,	1570.00,	1180.50,	250.00,	988.0,	0,	MEMPHIS. TN,	W HAVEN CT,	2
2	✓	1702.00	1200.15	✓	870.0	✓	✓	E BRUNS NJ	✓
3	✓	1675.00	1120.10	✓	924.0	✓	✓	ELIZA NJ	✓

NO COMMAS SHOULD BE ENTERED EXCEPT THOSE SHOWN IN BOLD INK ON THIS FORM. a/ 1= Local; 2= Interline; 3= Bridge

BILLING CODE 7035-01-C

Railroad Initials

ATSF—Atchison, Topeka and Santa Fe Railway Co., the
BO—Baltimore and Ohio Railroad Co.
BLE—Bessemer & Lake Erie Railroad Co.
BM—Boston and Maine Corp.
BN—Burlington Northern, Inc.
CO—Chesapeake and Ohio Railway Co.
CNW—Chicago and North Western Railway System
MILW—Chicago, Milwaukee, St. Paul and Pacific Railroad Co.
CRR—Clinchfield Railroad Co.
CS—Colorado and Southern Railway Co., the
CR—Consolidated Rail Corp.
DH—Delaware and Hudson Railway Co.
DRGW—Denver and Rio Grande Western Railroad Co., the
DTI—Detroit, Toledo and Ironton Railroad Co.
DMIR—Duluth, Missabe and Iron Range Railway Co.
EJE—Elgin, Joliet and Eastern Railway Co.
FEC—Florida East Coast Railway Co.
FWD—Fort Worth and Denver Railway Co.
GTW—Grand Trunk Western Railroad Co.
ICG—Illinois Central Gulf Railroad Co., the
KCS—Kansas City Southern Railway Co.
LN—Louisville and Nashville Railroad Co.
LI—Long Island Railroad Co., the
MKT—Missouri-Kansas-Texas Railroad Co.
MP—Missouri Pacific Railroad Co.
NW—Norfolk and Western Railway Co.
PLE—Pittsburgh and Lake Erie Railroad Co., the
SLSF—St. Louis-San Francisco Railway Co.
SSW—St. Louis Southwestern Railway Co.
SCL—Seaboard Coast Line Railroad Co.
SOO—Soo Line Railroad Co.
SP—Southern Pacific Transportation Co.
SOU—Southern Railway System
UP—Union Pacific Railroad Co.
WM—Western Maryland Railway Co.
WP—Western Pacific Railroad Co., the

Instructions for Computer Input Sheet for Ex Parte No. 389 Requesting Parties

Item No. and Description

1—Name of requesting party
3—Commodity description
4—Surcharging or cancelling carrier identification (as shown in Appendix B, Page 3)
8—Car type (as shown in Appendix C)
9—Railroad or privately owned (as shown in Appendix C)
10—Use only for privately owned cars
15—Number items sequentially
16—Minimum weight
17—Total revenue = Minimum weight × tariff rate
18—Division = total revenue × division percentage
19—Surcharge amount
20—Shortline miles on surcharging or cancelling carrier
21—Intertrain and intratrain switches
22—Origin of shipment (whether or not on surcharging or cancelling carrier)
23—Destination of shipment (whether or not on surcharging or cancelling carrier)
24—2 = Interline—use if traffic is originated *or* terminated by surcharging or cancelling carrier. 3 = bridge—use if traffic is neither originated *nor* terminated by surcharging or cancelling carrier

Appendix C.—Car Type Abbreviations

Box—general service unequipped	BXGU.
Box—general service equipped	BXGE.
Box special service	BXSS.
Gondola—general service	GNGS.
Gondola—special service	GNSS.
Hopper open—general service	OHGS.
Hopper open—special service	OHSS.
Hopper covered	COVH.
Stock	STCK.
Flat—general service	FLGS.
Flat—TOFC	TOFC.
Refrigerator—meat mechanical	RFMM.
Refrigerator—other mechanical	RFOM.
Refrigerator—meat non-mechanical	RMNM.
Refrigerator—other non-mechanical	RONM.
Tank 9,999 gallons and under	TK-1.
Tank 10,000-18,999 gallons	TK-2.
Tank 19,000-21,999 gallons	TK-3.
Tank 22,000-27,999 gallons	TK-4.
Tank 28,000-31,999 gallons	TK-5.
Tank 32,000 gallons and over	TK-6.

Car Ownership Abbreviations

RR = Railroad Owned
PL = Privately Owned

Note.—PL must be shown for any car for which the owner is paying a rental rate per car-mile only, or for any privately owned car for which no rental is paid.

[FR Doc. 81-9464 Filed 3-27-81; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 60
Monday, March 30, 1981

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-81-6]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice not the inclusion of commission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before: May 29, 1981.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regularly docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on March 24, 1981.

Edward P. Faberman,

Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

Petitions for Rulemaking

Docket No.	Petitioner	Description of the rule requested
21283	JT's Aero Maintenance.	To amend FAR 43, Section 43.13 (b) and (c), Section 43.15(b) and FAR 65, Section 65.91(c) (3) to refine and clarify those regulations. The intent of the petition is an upgrading of the qualification of mechanics and authorized inspectors, an increase in safety, and a decrease in confusion in the aviation industry.
21222	Air Line Pilots Association (ALPA).	To amend Parts 1, 25, 121, and 139 of the Federal Aviation Regulations. ALPA reviewed available information on the subject of the water survival provisions for transport aircraft occupants. Based on this review, ALPA states that existing FAA requirements and terminology relating to water survival do not accurately reflect the needs of current transport aviation experience and should be refined to meet these needs. Further, ALPA states that several areas which are critical to promoting survival of intentional or unintentional water contact are not addressed by the FAA. The petitioner proposes the following specific changes:
	ALPA	*§ 1.1* Redefine "Extended overwater operation" to read: "Extended overwater operation means—(1) With respect to aircraft other than helicopters, operation overwater outside coverage of ATC radar or overwater in areas where Search and Rescue efforts could not assure removal of accident survivors from the water in less than one hour." Define "Restricted overwater operation" as: "Operation overwater within ATC radar coverage or operation from airports bounded by significant bodies of water." *§ 25.801* Change title from "Ditching" to "Controlled Water Contact." In paragraph (b) change ". . . an emergency landing on water, ..." to ". . . a planned landing on water or unplanned controlled water contact, ..." Change paragraph (c) to read: "The probable behavior of the airplane in a planned or unplanned landing must be investigated by model tests or by comparison with airplanes of similar configuration for which the water landing characteristics are known. . . ." *§ 25.1411* Change paragraph (d)(1) to read: "The storage provision for the water survival equipment described in § 25.1415 must accommodate enough rafts for the maximum number of occupants for which certification for planned and unplanned water landing is requested." In paragraph (d)(2), change ". . . during an unplanned ditching" to ". . . during a planned or unplanned water landing." In paragraph (f) delete the words ". . . for which certification is requested." Also change "Each life preserver must be within easy reach of each seated occupant" to "Each life preserver must be stowed in a location above the seat bottom cushion which would permit donning of the life preserver in 15 seconds by a seated passenger." *§ 25.1415* Change the title from "Ditching Equipment" to "Water Survival Equipment" and substitute this terminology in place of "ditching equipment" throughout the rule. Change paragraph (e) to read: "For airplanes certificated for restricted overwater operation and not certificated in accordance with § 25.801, there must be approved life preservers and secondary flotation equipment to permit each occupant to keep the trunk of the body out of the water. These means must be readily removable from the airplanes." *§ 121.339* Delete the word "extended" in the title and align the text with overwater operation definitions proposed above. Equipment for extended overwater operation would remain the same and all references to "ditching" would be changed to "planned or unplanned water landing." Amend paragraph (a)(3) to describe what equipment features constitute a pyrotechnic signalling device suitable for use in rafts in the water. Also specify that air carriers operating in restricted overwater operations should be equipped with water survival equipment adequate to keep occupants out of the water when operating in areas and at times when the water temperature is known to be below 53° F. *§ 121.340* Amend text to require both a life preserver and an approved flotation means for each occupant, to specify that life preservers be located above the level of the seat bottom, and to be supplemented with rafts or flotation, platforms when water temperature is known to be below 53°F. *§ 139.49* Add a new paragraph to (j) to read: "Airports located adjacent to significant bodies of water must maintain or have available adequate water rescue equipment to retrieve the occupants of the largest aircraft operating from that airport and to permit response of 50% of this equipment to a water area within 2,000 of the active runway threshold within 10 minutes of dispatch." § 139.55 Amend paragraph (a) to require prompt response both on the airport and in water areas adjacent to the airport. Amend paragraph (b)(2)(iii) to include water vehicles.

Petitions for Rulemaking: Denied

Docket No.	Petitioner	Description of the rule requested
19348	Department of the Navy.	To amend Part 93 of the Federal Aviation Regulations (FARs) to prescribe a Special Air Traffic Rule, including radio communications requirements for certain air traffic operating within the Navy Willow Grove, Pennsylvania, Airport Traffic Area (ATA). Denied 11/14/80.
20898	Captain William Becker.	Amendment to § 121.587 of the Federal Aviation Regulations (FAR) to require the flightcrew compartment door to be closed, and locked only at the discretion of the pilot in command. Denied 3/16/81.
20351	Xenex Corp.	To amend §§ 25.831 and 121.219 of the Federal Aviation Regulations (FAR) to improve airplane passenger and crew compartment air quality standards. Denied 3/3/81.

[FR Doc. 81-9423 Filed 3-27-81; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-12-AD]

Airworthiness Directives; Fokker—VFW b.v. Model F-27 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes adoption of a new Airworthiness Directive (AD) which requires inspections, replacements, and modifications, as necessary, of certain components on Fokker—VFW b.v. Model F-27 airplanes. The AD is needed to detect and prevent certain unsafe conditions which were found earlier but for which no AD action was taken at the time found because the new Fokker Model F-27 airplanes on the FAA Aircraft Registry were operating in foreign countries, and correction of the unsafe conditions were established on an individual basis with the aid of foreign airworthiness authorities. However, the entry onto the FAA Registry of additional Fokker Model F-27 airplanes, which are intended for operations in the United States, necessitates AD action at this time to ensure that such aircraft maintain an acceptable level of safety.

DATES: Comments must be received on or before May 11, 1981.

Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: Federal Aviation Administration, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108. The applicable service bulletins may be obtained from: Service Manager, Fokker—VFW International, b.v., P. O. Box 7600, Schiphol Oost, The Netherlands.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Division, ANW-100, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108; Telephone (206) 767-2565.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice 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 proposed rule. The proposals 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 FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any persons may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 80-NW-55-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Discussion

In the past, the Netherlands Civil Aviation Department (RLD), in accordance with existing provisions of a bilateral agreement, has notified the FAA of a number of inspections, replacements, and modification requirements which they have imposed upon Netherlands-manufactured and operated Fokker Model F-27 airplanes to correct unsafe conditions. Previously, only two Fokker F-27 airplanes were on the FAA Registry, and those are being operated outside of the United States. For those few aircraft, corrections of the unsafe conditions found by the RLD have been confirmed by the FAA with the assistance of the RLD and other foreign airworthiness authorities. However, the additional Fokker Model F-27 airplanes entered on the FAA Registry in the near future may be operated within the United States. The FAA agrees that the requirements presented in this proposed AD, which are based on the special requirements of the RLD, are related to the following unsafe conditions:

A. Inadvertent unlocking of the Ipeco seat can lead to spurious pilot input or loss of flight control input during maneuvers which require precise flight control for safe flight. (Reference Fokker Service Bulletin (SB) 25-47 dated January 1, 1979.)

B. Hook latch failure of the cargo door latch mechanism could lead to explosive decompression and associated structural damage hazard. (Reference SB 52-60 dated May 1, 1979.)

C. Broken elevator center hinge fitting may necessitate drastic trim changes to maintain flight control which is unsafe and may lead to stall if the changes are required in critical flight regimes such as takeoff and landing. (Reference SB 55-52 dated May 1, 1979.)

D. Insufficient clearance may prevent the main entrance door from being opened when the emergency release is being used during an emergency evacuation thus trapping occupants in the aircraft when quick egress may be required. (Reference SB 52-61 dated January 2, 1980.)

E. Failure of the retaining ring on the main landing gear retraction ram may lead to unlocked partial extension and subsequent collapse of the main gear on landing. (Reference SB 32-136 dated February 18, 1980.)

F. Water collecting in the pilot static tubes can lead to erroneous airspeed, altitude and vertical speed information being presented to the flight crew. (Reference SB 34-41 dated March 13, 1979.)

G. Chafing of the cable loom between two deicing relay panels may lead to the loss of RH engine deicing, windshield antiicing and cockpit heating. These incidents in turn may lead to engine and flight visibility loss. (Reference SB 30-34 dated April 17, 1978.)

H. A wiring error may lead to isolation of both batteries from the main DC tie bus when one reserve current circuit breaker trips. This may lead to total instrumentation and lighting loss when DC emergency power is required. (Reference Special Instructions 76 dated November 20, 1978.)

Since these conditions are likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspections, replacements, and modifications, as

necessary, on certain Fokker Model F-27 airplanes. Each numbered paragraph of this proposed AD identifies the serial numbers of the airplanes affected, the specific unsafe condition to which it is directed, and the related corrective action that would be required for resolution of this unsafe condition.

It is estimated that 16 airplanes will be affected by this AD, that it will take approximately 41 man-hours per airplane to accomplish the required actions, and that the average labor cost will be $30 per man-hour. Repair parts are estimated at $1,075 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $47,920. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive: Fokker—VFW b.v. Applies to Model F-27 airplanes, all series, certificated in all categories as indicated below.

Unless already accomplished, accomplish the following within the time specified in each paragraph below after the effective date of this AD.

A. Applies to airplanes S/N 10479, 10492, 10499, 10500, 10502, 10529, 10534, 10536 through 10557, 10559, 10561 through 10585. To prevent inadvertent unlocking of the Ipeco seats (used for the pilot, copilot, and at other locations) in the tracks, within the next 100 hours time in service, inspect the seat locking mechanism of the Ipeco seats and every 50 hours thereafter until modified. Within the next 500 hours time in service modify the seat track in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulleting No. 25-47, dated 1 January 1979.

B. Applies to airplanes S/N 10572 and below equipped with a large cargo door. To ensure the functional and structural integrity of the cargo door latch mechanism, within the next 100 hours time in service, inspect the latch mechanism and rework as necessary, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 52-60 dated May 1, 1979.

C. Applies to airplane S/N 10547 and below, 10558, and 10560. To prevent failure of the right elevator center hinge fitting, within the next 100 hours time in service, inspect the hinge fitting for cracks and every 100 hours thereafter until replaced. Within the next 500 hours time in service replace hinge fitting accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 55-52 dated May 1, 1979.

D. Applies to airplane S/N 10102 through 10462 incorporating Fokker F-27 Service Bulletin No. 52-47, 10464 through 10468, 10470 through 10477, 10484, 10486, 10498, 10501, 10503 through 10506, 10508, 10511 through 10515, 10519, 10521 through 10525, 10527, 10528, 10530 through 10535, 10539, 10545, 10550, 10551, 10552, 10554, 10557 through 10560, 10562, 10563, 10566, 10567, 10569, 10572, 10573, 10574, 10576, 10579, 10581, 10585 through 10589, and 10591. To ensure the operation of the main passenger door during an emergency evacuation, within the next 100 hours time in service after the effective date of this AD, inspect and modify as necessary, the emergency release mechanism of the main passenger door in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 52-61, dated 2 January 1980.

E. Applies to all Fokker F-27 airplanes having accumulated more than 7,000 landings. Compliance required within the next 500 landings after the effective date of this AD. To ensure main landing gear system operation replace main gear actuating ram retaining ring P/N ACM18254 with a serviceable retaining ring, with a ring having less than 7500 hours total time in service, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 32-136, dated 18 February 1980. (Note: The retirement life time of the ring has been reduced from 12000 landings to 7500 landings.)

F. Applies to airplane S/N 10505 to 10547 inclusive and 10550. To ensure the reliability of the pilot static system, within the next 100 hours time in service after the effective date of this AD, modify the pilot static system in accordance with the Fokker F-27 Service Bulletin No. 34-41, dated March 13, 1978.

G. Applies to airplane S/N 10299 to 10547 inclusive. To prevent damage to the cable loom, within the next 200 hours time in service after the effective date of this AD, inspect and modify as necessary the cable loom in accordance with Fokker F-27 Service Bulletin No. 30-34 dated April 17, 1978.

H. Applies to airplane S/N 10526, 10527, 10529, 10543, 10547, 10533, 10555, 10556, 10563, 10564, 10565, 10570, 10582 and 10583. To ensure airplane battery power to the main DC tie bus, within 100 hours time in service after the effective date of this AD, inspect and modify as necessary the battery wiring to the battery reverse current circuit breakers in accordance with the Fokker F-27 Special Instructions No., 76 dated November 20, 1978.

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

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

Note.—The FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291 for the reasons stated earlier. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact". In addition, it has been determined under the criteria of the regulatory Flexibility Act that this proposed rule, at promulgation, will not have a significant impact on a substantial number of small entities.

Issued in Seattle, Washington on February 27, 1981.

Charles R. Foster,

Director, Northwest Region.

The incorporation of reference provisions in the document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 81-9422 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1301

Ban of Unstable Refuse Bins; Proposal to Partially Revoke the Rule as It Applies to Front-Loading, Small-Capacity, Straight-Sided Refuse Bins

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed partial revocation of rule.

SUMMARY: The Commission proposes to partially revoke its rule banning unstable refuse bins as the rule may apply to certain front-loading, 1, 1½, and 2 cubic yard straight-sided refuse bins.[1] Information developed as the

[1] On March 12, 1981, the Commission voted 3-1 to propose partial revocation of the ban of unstable refuse bins as requested by the petitioner. Acting Chairman Statler concurred in proposing this exemption. However, he also would have approved a proposal to exempt other similarly constructed, straight-sided, front-loading refuse bins without

Continued

result of a petition from the Greater Los Angeles Solid Wastes Management Association for exemption from the rule, as well as a review of the history of the banning rule, shows that inclusion in the rule of these straight-sided refuse bins may not be reasonably necessary to reduce an unreasonable risk of injury from crushing due to tipover that is associated with rear-loading slant-sided unstable refuse bins.

DATES: (1) Effective date: The Commission proposes that the partial revocation become effective 30 days after publication in final form of a partial revocation. (2) Written comments concerning the proposed partial revocation, preferably in 5 copies, should be submitted by May 26, 1981. (3) Interested persons will have an opportunity to make oral presentations of data, views or arguments regarding this proposal at 10:00 a.m. on May 11, 1981.

ADDRESSES: Written comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. All Commission materials relevant to this proceeding may be seen in or copies obtained from the Office of the Secretary, 3rd floor, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Harry Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492-6453.

SUPPLEMENTARY INFORMATION:

Origin of the Banning Rule

The rule banning unstable refuse bins (16 CFR 1301, 42 FR 30296, June 13, 1977) resulted from the Commission granting a petition (CP 75-14) from Dr. Stephen R. Redmond, the Commissioner of Health of Dutchess County, New York. The petitioner submitted information concerning injuries to children playing on or swinging from the front of slant-sided refuse bins to show his concern that slant-sided bins are unstable due to their design. Since the center of gravity is offset due to the slant configuration, the petitioner believed that even small children can tip over these refuse bins and that tipover can crush children in the vicinity of the refuse bin. Therefore, the petitioner asked the Commission to commence an appropriate proceeding to establish safe design criteria for the manufacture of refuse bins.

In evaluating the petitioner's information, the Commission found that slant-sided refuse bins with a three cubic yard capacity could be tipped over by a force of as little as 44 pounds acting horizontally or 55 pounds acting in a vertical downward direction from the lip of the refuse bin. Although unstable refuse binds might be found in various forms and shapes, Commission investigation into accidents revealed incidents associated only with slant-sided metal refuse bins which utilize trunnion bars for lifting filled refuse bins up to the openings of rear loading or side loading refuse collection trucks. The Commission also found that certain refuse bins such as front-loaded, roll-off, box, and other types of large or broad based refuse bins, because of their configuration, bulk and weight are likely to be inherently stable.

Commission rulemaking proceedings which culminated in the rule at 16 CFR 1301 specifically excluded refuse bins of less than one cubic yard capacity and also plastic refuse bins on the grounds that the lack of injury information associated with such refuse bins tended to show they presented little hazard of tipover and consequent crushing. Thus, the consumer product safety rule declaring that certain unstable refuse bins are banned hazardous products applies to metal refuse bins having an internal volume of one cubic yard or more that would tip over if tested according to procedures specified in the rule. These test procedures, based on a standard developed by the American National Standards Institute (ANSI), Z245.3-1976 subcommittee, require the application of forces equivalent to a horizontal force of 70 pounds and a vertical force of 191 pounds, applied separately in the direction most likely to cause tipping. These test procedures represent the forces that two eight-year old children may be capable of exerting that could lead to tipover.

Ban vs. Standard

A Ban under section 8 of the CPSA applies to a product that "is being or will be distributed in commerce." A Consumer Product Safety Standard issued pursuant to section 7 of the CPSA is a prospective rule, intended to cover products manufactured after the effective date of the rule. The Commission has observed that most refuse bins have a long, usable lifespan of up to 20 years. These refuse bins are available for trash storage and collection at multiple residences, shopping centers, schools and other consumer environments.

The ban, therefore applies to those bins presently in use as well as bins manufactured and distributed in the future. A standard would have allowed unstable, non-complying bins produced prior to the effective date to remain in areas populated by children for up to 20 years.

The Commission found, therefore, that no feasible safety standard under the Consumer Product Safety Act (CPSA) could adequately protect the public from the unreasonable risk of injury associated with unstable refuse bins, since such unstable refuse bins are being continuously distributed in commerce for the purpose of storage and collection of refuse. The Commission further concluded that a rule banning the manufacture, sale and distribution in commerce of unstable refuse bins was reasonably necesssary to reduce or eliminate the risk of injury or death.

In issuing the rule, the Commission observed that unstable refuse bins could be retrofitted in any permanent manner that would enable them to pass the test procedures. To permit sufficient time for the retrofitting process, the effective date of the rule was deferred for one year, to June 13, 1978.

Petition for Exemption From the Banning Rule

On October 2, 1979, Mr. Carl Agajanian, President of the Greater Los Angeles Solid Wastes Management Association, petitioned the Commission (CP 80-1) to exempt straight-sided refuse bins from the Commission ban of unstable bins. In the months following submission of the petition, the petitioner progressively narrowed the scope of his petition until the petition requested exemption only for front-loading, straight-sided metal refuse bins with an internal volume capacity of 1, 1½ and 2 cubic yards; the dimensions for which exemption from the rule was requested are described in the table below:

Table 1—Front-Loading Container Dimensions

Internal volume	Length	Width	Height[1]		Weight (lbs)
			High side	Low side	
1 cubic yard	70-72"	21-23"	29-31"	29-31"	313-347
1½ cubic yards	70-72"	29-31"	33-36"	29-32"	346-382
2 cubic yards	70-72"	32-35"	39-43"	31-36"	409-453

[1] Does not include height of wheels.

trunnion bars. The dissent of Commissioner Sloan, filed previously when the Commission voted to grant the petition on June 19, 1980, is available from the Office of the Secretary.

Among the reasons for exemption, the petitioner contended as follows: there is no evidence of injuries associated with straight-sided refuse bins; straight-sided bins, particularly front-loading bins do not have trunnion bars for children to use as handholds to swing from; straight-sided bins are likely to be inherently stable.

The petitioner acknowledged that the refuse bins of concern to him were subject to the banning rule since several of these models failed part of the test procedures; (the only refuse bins which are banned are those that would fail if tested). Thus, in order to grant the petition, there would have to be a showing that, notwithstanding these test failures, continued application of the banning rule to the refuse bins specified by the petitioner was not reasonably necessary to reduce the unreasonable risk of injury associated with unstable refuse bins.

Basis for Granting Petition

A review of injury information available to the Commision reveals 58 incidents associated with refuse bin tipover. In 39 of the incidents, the refuse bins were reported to be slant-sided. There is no evidence to indicate that any of the remaining 19 cases involved small capacity, straight-sided refuse bins. The 58 incidents involved 60 victims; 27 of the victims died as a result of their injuries. Another 25 were admitted as hospital patients. Of the 60 persons incurring injuries associated with refuse bin tipover, 31 victims were less than 6 years old; nearly half of these died from their injuries. Twenty-five victims were between 6 and 10 years of age; more than half of these also died as a result of their injuries.

The Commission's Division of Human Factors identified the single most frequent hazard pattern as swinging on or hanging from the front of a slant-sided bin, often using the trunnion bar as a handle. Other play patterns of victims around these refuse bins are pushing or leaning against the bin, climbing onto or into the bin, putting something into the bin, or trying to prevent the bin from falling. In the 24 incidents involving slant-sided bins were the height of the refuse bin was identified; 15 refuse bins were less than 42 inches tall; seven were from 42 to 48 inches tall; the other two were 58 and 49 inches tall. For the petitioner's containers specifed in table 1, most of which are shorter than those involved in the accidents described and all of which are straight-sided, the vertical forces that could be exerted by children are less likely to cause tipover; for as the height of the bin is lowered, only shorter children would be able to hang from the side with their full weight, the most common fatality scenario.

Engineering information submitted by the petitioner describes tests showing that some straight-sided refuse bins have a lower center of gravity than slant-sided refuse bins. In addition, the petitioner contends that the smaller capacity straight-sided bins are lower in height and thus tend to be more stable. On the basis of these contentions, the petitioner concluded that although his refuse bins can fail the rule's test procedures, it would be unlikely that the conditions under which test failures occur would also occur in play patterns applicable to straight-sided bins. In reviewing the petitioner's contentions, Commission engineers state that to cause tipover a child would need to maintain a pulling force for a longer duration on a straight-side bin with a low center of gravity than on a slant-sided bin with a higher center of gravity. This factor indicates greater stability. Commission engineers note that the petitioner's refuse bins appear to be fairly low in height and lack trunnion bars for children to swing from. Therefore, although the straight-sided bins sometimes fail the horizontal component of the test procedure, the Commission concludes that tipover and the resulting injury is less likely to occur with a straight-sided bin than with a slant-sided bin.

In evaluating the petitioner's views, the technical information submitted to support the narrowed scope of the petition, and the review of all the relevant information by the Commission's technical staff, the Commission observes that large areas of agreement exist. It appears that some of the hazard patterns resulting from typical play of children around slant-sided refuse bins, as recorded in injury information, would be less likely to occur or perhaps could not occur around front-loading, small-capacity, straight-sided refuse bins. The Commission is not aware of any injuries associated with these refuse bins.

In evaluating whether a regulation should be partially revoked section 9(e) of the CPSA requires that the Commission must determine whether the portion of the rule under consideration is not reasonably necessary to eliminate or reduce an unreasonable risk of injury. In making this determination, the Commission considers the seriousness of the hazard that could occur and the likelihood of the hazard occurring under actual use conditions. In addition to the frequency and severity of the injury, the Commission also considers the impact of the revocation on cost, utility and availability of the product, as well as other economic considerations. The gravity of the injury associated with unstable refuse bins, crushing due to tipover, is clear; 27 of the 60 victims on which the Commission has information, died, and most of the others required hospitalization. Slant-sided refuse bins are known to provide attractive play opportunities for children primarily because of trunnion bars which allow for handholds and slanted sides which allow for swinging space. The cumulative incident data indicate the likelihood that children would continue such hazardous play patterns on slant-sided refuse bins in the future.

However, the data show that none of the crushing injuries are associated with low, straight-sided front-loading refuse bins of 1, 1½, and 2 cubic yard capacity, even though large numbers of these bins have been in use for many years. Further, the low heights, configurations, and lack of trunnion bars for these refuse bins indicate that children generally would not be able to swing from them. Thus, although these refuse bins may have some potential for contributing to injury, all the available information indicates that the likelihood of actual injury is small.

The Commission estimates that between 122,000 and 185,000 front loading bins between one and two cubic yards in Southern California would be exempted from complying with the test requirements of the ban under the proposed partial revocation. We estimate that between 53,200 and 80,500 of these bins would require retrofit under the present standard. With an estimate of approximately $40–$50 (with industry estimates up to $100) per bin for retrofit, the Commission believes that the total cost to small businesses in Southern California (the only area for which the Commission has estimates for straight-sided bins) would be between 2.1 million and 4 million dollars. For a refuse collection company with 5 trucks, the Commission estimates a cost of $6,000 to $7,500. The costs associated with retrofit may present severe economic hardship for some firms. The proposed partial revocation should generally make the bins more readily available, and should assist small refuse haulers in controlling future costs to clients.

Upon careful consideration of these factors, the Commission preliminarily concludes that coverage under the banning rule of the refuse bins described in Table 1 is not reasonably necessary to reduce an unreasonable risk of injury

due to crushing from tipover of unstable refuse bins. Accordingly, the Commission granted petition CP 80-1 to exempt Table 1 refuse bins from the banning rule at 16 CFR 1301.

In granting the petition and proposing a partial revocation, the Commission continues to emphasize its previous determination that other metal refuse bins of 1-cubic yard or greater capacity which would tip over if subjected to the test procedures specified in the rule, are banned hazardous products. The Commission's findings included in the banning rule at 16 CFR 1301.3 indicate that the refuse bins covered by the rule may be known in the refuse collection trade as containers, buckets, boxes, hoppers or otherwise. Refuse bins covered by the rule may be fabricated in numerous sizes and configurations for use with rear, side, front, hoist and roll-off loaded trash collection trucks, and are used by private firms and public agencies. Additional findings in the rule indicated also the Commission's awareness that the universe of refuse bins includes products that may be more of less stable than others. Except for the refuse bins described in Table 1, however, the Commission reiterates that the provisions of the banning rule would continue to apply to unstable refuse bins.

Effect of Granting Exemption

Although the petitioner's request for exemption of Table 1 refuse bins from the banning rule was made only with respect to such refuse bins in Southern California, other refuse bins that meet the same description may be located in other areas of the country. To help ensure that the effects of granting the exemption from the banning rule are uniform, the Commission proposes to partially revoke the banning rule at 16 CFR 1301 as the rule may apply to Table 1 refuse bins located anywhere within the Commission's jurisdiction.

Section 9(e) of the CPSA (15 U.S.C. 2058(e)) provides that the Commission may, by rule, revoke any consumer product safety rule. A revocation or partial revocation under section 9(e) may be issued by publishing a proposal in the **Federal Register** and providing an opportunity for interested persons to submit written comments and to make oral presentations of data, views or arguments according to section 9(a)(2) of the CPSA. A revocation or partial revocation is not subject to the requirements for economic findings under subsections (a) through (d) of section 9.

Under the rule-making provisions of the Administrative Procedures Act (5 U.S.C. 553(d)(i)) an agency may give effect to substantive rules that grant or recognize an exemption or relieve a restriction prior to an opportunity for notice and comment. To allow sufficient time for consideration of this proposed revocation and to avoid requiring compliance with the rule by persons subject to the proposed exemption, the Commission advises that enforcement of the banning rule as to Table 1 refuse bins is stayed as a consequence of this proposed partial revocation. The stay of enforcement will remain in effect pending final action on the partial revocation.

Small Business Impact

As discussed in the staff's economic report, staff estimates that between 122,000 and 185,000 front loading bins between one and two cubic yards in Southern California would be exempted from complying with the test requirements of the ban under the proposed partial revocation. Staff estimates that between 53,200 and 80,500 of these bins would require retrofit under the present standard at an estimated cost of approximately $40–50 (with industry estimates up to $100) per bin. Thus, the cost to small businesses in Southern California, the only area for which the Commission has estimates for straight-sided bins, would be between 2.1 million and 4 million dollars. The proposed partial revocation should generally save refuse haulers, many of which are small businesses, the cost of retrofit and make the bins more readily available.

Based on this information and in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Commission concludes that the proposed partial revocation will not, if promulgated, have an adverse economic impact on a substantial number of small entities. A certificate to that effect has been prepared and signed by the Secretary of the Commission.

Environmental Considerations

The Commission's environmental review procedures, 16 CFR 1021.5(c) provide that certain categories of CPSC actions normally have little or no potential for affecting the human environment and therefore would not require the preparation of environmental documents. (These categories are termed "categorical exclusions" in the NEPA regulations; see §§ 1507.3(b)(2) and 1508.4.) An environmental review, therefore is not generally required for amendments or revocations of existing safety rules that do not alter the principal purpose or effect of the rule (see § 1205.5(c)(1)). The proposed partial revocation described below would not alter the principal purpose or effect of the banning rule at 16 CFR 1301 which is to reduce an unreasonable risk of injury from crushing from tipover that is associated with unstable refuse bins. The proposed partial revocation would remove from coverage of the banning rule only one category of product: front-loading, straight-sided refuse bins of 1, 1½ and 2 cubic yard capacity of certain specified configurations. The Commission does not foresee any environmental effects from issuance of the proposed partial revocation which would necessitate an environmental review. Consequently, preparation of environmental documents is not necessary.

Effective Date

The Commission proposes that the partial revocation proposed below become effective thirty days after publication of a final partial revocation.

Proposal and Stay

In accordance with section 9(e) of the CPSA, Pub. L. 92–573, 86 Stat. 1215, 15 U.S.C. 2058(e), the Commission proposes to partially revoke the consumer product safety rule declaring that certain unstable refuse bins are banned hazardous products, as the rule applies to certain front-loading, straight-sided refuse bins of 1, 1½ and 2 cubic yard capacity by making the following changes in Part 1301 of Title 16, Chapter II, Subchapter B, Code of Federal Regulations, and for the reasons described above, temporarily stays the enforcement of the ban as it applies to such bins.

1. By adding a new paragraph (e) to § 1301.1 as follows:

§ 1301.1 Scope and applications.

* * * * *

(e) This rule, effective ————, is partially revoked and therefore does not apply to front-loading, straight-sided refuse bins having an internal volume capacity of 1, 1½, or 2 cubic yards, of the following external dimensions:

Internal volume	Length	Width	Height [1]		Weight (lbs)
			High side	Low side	
1 cubic yard	70–72"	21–23"	29–31"	29–31"	313–347
1½ cubic yards	70–72"	29–31"	33–36"	29–32"	346–382

Internal volume	Length	Width	Height [1]		Weight (lbs)
			High side	Low side	
2 cubic yards	70-72"	32-35"	39-43"	31-36"	409-453

[1] Does not include height of wheels.

(Authority: Sec. 9(e), Pub. L. 92-573, 86 Stat. 1215, 15 U.S.C. 2058(e))

Dated: March 23, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-9449 Filed 3-27-81; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240, 250, 260, 270, and 275

[Release No. 33-6302, 34-17645, 35-21970, 39-619, IC-11694, and IA-754; File No. S7-879]

Proposed Definitions of "Small Business" and "Small Organization" for Purposes of the Regulatory Flexibility Act

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Securities and Exchange Commission is inviting comments on proposed definitions of certain terms that will be used in connection with future Commission rulemaking proceedings under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940 and the Investment Advisers Act of 1940 regarding disclosure, reporting and regulatory requirements applicable to business concerns and other organizations which are subject to these statutes. The definitions are being proposed specifically for purposes of the Regulatory Flexibility Act, which requires the Commission to consider the impact of its regulations on small entities. The Commission is also inviting comments on the possible content of definitions of certain other terms used in the Regulatory Flexibility Act which would be pertinent to any determination that a Commission rule may have a "significant economic impact" on a "substantial number" of small business entities.

DATES: Comments are due by May 19, 1981.

ADDRESSES: Persons wishing to submit written views should file four copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-879 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

General

Jeffry L. Davis, Esquire, Acting Director, Directorate of Economic and Policy Analysis, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202-272-2850).

Offices With Particular Responsibilities

Paula Chester, Esquire, Division of Corporation Finance (Definitions applicable to the Securities Act of 1933, the reporting and disclosure provisions of the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939), (202-272-2644).

Jonathan Kallman, Esquire, Division of Market Regulation (Definitions applicable to brokers, dealers, clearing agencies, exchanges, bank municipal securities dealers, securities information processors, and transfer agents), (202-272-2843).

James E. Lurie, Special Counsel, Division of Corporate Regulation (Definitions applicable to public utility holding company systems), (202-523-5683).

Elizabeth T. Tsai, Esquire, Division of Investment Management (Definitions applicable to investment companies and investment advisers), (202-272-2028).

SUPPLEMENTARY INFORMATION: The Commission is proposing to define the terms "small business" and "small organization," for the purposes of Chapter Six of the Administrative Procedure Act, 5 U.S.C. 601 *et seq.*, (the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980)), as those terms may apply to organizations and entities that are issuers of securities or otherwise engaged in securities or other business activities subject to disclosure and reporting requirements or regulation by the Commission pursuant to the Securities Act of 1933, 15 U.S.C. 77a *et seq.*, (the "Securities Act"), the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*, (the "Securities Exchange Act"), the Public Utility Holding Company Act of 1935, 15 U.S.C. 79a *et seq.*, (the "Holding Company Act"), the Trust Indenture Act of 1939, 15 U.S.C. 77aaa *et seq.*, (the "Trust Indenture Act"), the Investment Company Act of 1940, 15 U.S.C. 80a *et seq.*, (the "Investment Company Act"), or the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 *et seq.*, (the "Advisers Act"). The Regulatory Flexibility Act (the "RFA") requires that the Commission, among other things, consider the economic impact of Commission rulemaking action on entities that qualify as "small" under applicable standards as set forth in the RFA, the Small Business Act[1] or the regulations promulgated by the Small Business Administration ("SBA").[2] In view of the apparent absence of appropriate standards in those statutes and regulations for defining small entities subject to its regulation, the Commission is proposing for public comment pursuant to the RFA definitions that it believes are appropriate to the regulation of issuers and other entities in the securities industry or otherwise subject to regulation under statutes administered by the Commission and is requesting comments on the possible content of procedural rules to implement the RFA.

Table of Contents

I. Introduction

The RFA amended the Administrative Procedure Act to require, among other things, that agencies examine the impact

[1] 15 U.S.C. 631 *et seq.*

[2] 13 CFR Part 121.

of proposed rules on "small entities," as defined in the RFA, and consider alternative requirements that could accomplish the stated objectives of the applicable statutes.

The term "small entity" is defined in the RFA to have the same meaning as the terms "small business," "small organization," and "small government jurisdiction."[3] Each of those terms is also defined in the RFA.[4] Generally, "small business" is defined as having the same meaning as the term "small business concern" in Section 3 of the Small Business Act;[5] "small organization" is defined as "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field";[6] and "small government jurisdiction" is defined as governments of, among other things, cities, towns, townships, and villages "with a population of less than fifty thousand."[7] These definitions apply, where appropriate, unless an agency, after consultation with the Office of Advocacy of the SBA and opportunity for public comment, establishes one or more definitions of such terms that are applicable to the activities of the agency.[8]

The Commission believes that it would be desirable to develop special definitions for the terms "small business" and "small organization" to be applied to securities issuers and registrants that are subject to the registration and reporting requirements of the Securities Act, the Trust Indenture Act, and the Securities Exchange Act; to brokers, dealers, clearing agencies, exchanges, bank municipal securities dealers,[9] securities information processors, and transfer agents that are subject to the Securities Exchange Act; to public utility holding companies and their subsidiaries in holding company systems that are subject to the Holding Company Act; and to investment companies and investment advisers that are subject to the Investment Company Act and the Advisers Act. The Small Business Act and the regulations promulgated by the SBA provide industry size standards that are, in the context of regulations affecting issuers and reporting companies, generally inappropriate. Also, those size standards are not sufficiently tailored to rulemaking affecting regulated entities such as brokers, banks, clearing agencies, investment companies or public utility holding companies.[10]

Accordingly, on the basis of its experience in the administration of the federal securities laws and its knowledge of the securities industry, the Commission is proposing size standards applicable to entities whose business activities are subject to regulation under the federal securities laws or which are subject to disclosure or other requirements under those laws. Although the proposed size standards would be generally applicable in Commission rulemaking, the proposed rules also provide that the Commission may, in particular instances, if the circumstances so warrant, define a particular entity in a manner different from that set forth in the proposed rules. In any such case, appropriate notice will be provided that the Commission intends to use or is using a different definition.

II. Description of the Proposed Definitions

A. *The Securities Act—Issuers Engaged in Small Business Financing.*

A major purpose of the Securities Act is to ensure that public investors to whom issuers and others offer securities for sale are given adequate disclosure of financial and other material information upon which to make investment decisions. To accomplish this purpose, the Securities Act prohibits the use of the mail and the facilities of interstate commerce for the sale of securities or the delivery of securities after sale unless and until a registration statement, which includes a prospectus, has become effective with respect to such securities, or unless there is an available exemption therefrom. The framework of the Securities Act is transaction oriented; *i.e.*, registration of securities under the Securities Act is required only when certain transactions are proposed or occur.

The Commission is authorized under Section 3(b) of the Securities Act to exempt transactions from registration if it finds that registration for these securities is not necessary in the public interest because of the small amount involved or the limited character of the public offering. Pursuant to this authority, the Commission has adopted various exemptive rules and regulations. The most significant of them from a small business standpoint are Regulation A [17 CFR 230.251–264], Rule 240 [17 CFR 230.240], and Rule 242 [17 CFR 230.242].

When Section 3(b) was originally adopted in 1933, the maximum dollar value of securities that could be exempt from registration pursuant to that section was $100,000. Prior to the enactment of the Small Business Investment Incentive Act of 1980 (the "1980 Act") [Pub. L. No. 96–477 (October 21, 1980)], the ceiling had been raised on several occasions, including May 1978, when it was increased from $500,000 to $1,500,000[11] and October 1978, when it was increased from $1,500,000 to $2,000,000.[12] Most recently, Section 301 of the 1980 Act increased the Section 3(b) ceiling from $2,000,000 to $5,000,000. This Congressional action was intended to provide the Commission with increased flexibility in developing exemptions targeted to smaller issuers.[13] Thus, Congress has consistently recognized that an exemption based on the size of the transaction rather than solely on the size of the issuer is an appropriate vehicle for relieving the compliance burdens under the Securities Act for small companies in a manner that is consistent with the Commission's statutory mandate to protect the investing public.

In addition, the Commission also notes that Congress recently took the same approach in the enactment of new Section 4(6) of the Securities Act. Section 4(6), added by the 1980 Act, provides an exemption from the registration provisions of the Securities Act for transactions involving offers and sales of securities by an issuer solely to one or more accredited investors, if the aggregate offering price does not exceed the amount allowed under Section 3(b) of that Act.[14] The new exemption was designed to facilitate the formation of capital by small issuers without incurring the cost normally associated with registration.

In this connection, the Commission notes that there is substantial factual data which indicates that exemptions under Section 3(b) and other offerings

[3] 5 U.S.C. 601(6).

[4] *See* 5 U.S.C. 601(3), (4), (5).

[5] 5 U.S.C. 601(3).

[6] 5 U.S.C. 601(4).

[7] 5 U.S.C. 601(5).

[8] 5 U.S.C. 601(3), (4), (5).

[9] Municipal securities dealers that are not banks should refer to the definition of small business as it relates to broker-dealers.

[10] *See* 5 U.S.C. 601 (3), (4), (5); 15 U.S.C. 632; 13 CFR Part 121 (1980); Small Business Size Standards, Revisions of Methods of Establishing Size Standards and Definitions of Small Business, 45 FR 15442, 15450 note 8 (March 10, 1980).

[11] Pub. L. No. 95–283, May 21, 1978.

[12] Pub. L. No. 95–425, October 6, 1978.

[13] H.R. Rep. 1341, 96th Cong., 2d Sess. at 21 (1980).

[14] Section 4 of the Securities Act provides in pertinent part:

The provisions of Section 5 shall not apply to—

(6) transactions involving offers and sales by an issuer solely to one or more accredited investors, if the aggregate offering price of an issue of securities offered in reliance on this paragraph does not exceed the amount allowed under Section 3(b) of this title, if there is no advertising or public solicitation in connection with the transaction by the issuer or anyone acting on the issuer's behalf, and if the issuer filed such notice with the Commission as the Commission shall prescribe.

under $5 million are used primarily by small issuers. As an example, a recent study of Rule 242 prepared by the Directorate of Economic and Policy Analysis and released by the Commission [15] indicates that during the first six months the exemption was available 64 issuers filed Form 242 notices of intended sales aggregating $38,085,704, with an average intended sales amount of $613,850. This study also indicated that issuers using Rule 242 are small when measured by their financial characteristics. Over half had no more than $1,000,000 in annual revenues and total assets for their latest fiscal year and reported either zero or negative net income. A similar study of Form S-18, the simplified registration and reporting form for first-time issuers,[16] indicates that the typical Form S-18 issuer had revenues of $54,000 and assets of $273,000 for the last year prior to the offering.[17] Therefore, it appears that there is a significant direct relationship between the size of the offering and the size of the issuer. Thus, the Commission is proposing to define the terms "small business" and "small organization" based on the size of the transaction.

In order to further assure that any evaluation of the impact of compliance regarding proposed or adopted rules under the Securities Act includes only an analysis of those issuers for which fixed costs become disproportionately expensive, the Commission is also proposing to include a total assets test in its definition of "small business."

Accordingly, the Commission is proposing to amend its rules under the Securities Act by adding new Rule 157, 17 CFR 230.157. Proposed Rule 157 would define the terms "small business" and "small organization" as any issuer, other than an investment company, whose total assets on the last day of its most recent fiscal year were $2.5 million or less and that is engaged in small business financing; *i.e.*, any issuer that is engaged or proposes to engage in the offer and sale of its securities that does not exceed the dollar limitation prescribed by Section 3(b) of the Securities Act. The asset test incorporated in the Securities Act definition of "small business" corresponds to the Commission's proposed definition under the Securities Exchange Act (see Section II.C., *infra*). It is designed to ensure that large issuers, that for varied reasons may issue securities in limited size offerings, are not included in any impact analyses on "small business" as required by the RFA.

B. *The Trust Indenture Act—Issuers Engaged in Small Business Financing.*

The Commission is proposing separate definitions of "small business" and "small organization" for purposes of the RFA to be applicable to rulemaking under the Trust Indenture Act. A trust indenture is, in effect, a contract which outlines the respective rights and duties of the issuer of debt securities, the holders of the debt securities and the trustee. The Trust Indenture Act generally requires that bonds, notes, debentures, and other debt securities publicly offered for sale be issued under an indenture which includes certain provisions designed to protect the interests of the investors.

The Trust Indenture Act creates three separate categories of indentures for which the level of regulation varies substantially. The first category is debt offerings that, by reason of their size, are exempt completely from the Trust Indenture Act. Pursuant to Section 304(a)(8) of the Trust Indenture Act, a trust indenture need not be used in public offerings of debt securities which do not exceed the amount that can be exempted from registration under Section 3(b) of the Securities Act.[18] The second category relates to offerings subject to Section 304(a)(9) of the Trust Indenture Act for which an indenture is required. If the required indenture limits the aggregate principal amount outstanding under it to $10,000,000 and the issuer does not claim the exemption for more than $10,000,000 aggregate principal amount during any consecutive 36-month period, the indenture does not have to include the provisions which would "qualify" it under the Trust Indenture Act.[19] The Commission is given rulemaking authority to establish from time to time appropriate amounts beneath the respective ceiling amounts that can be totally or partially exempt from the Trust Indenture Act pursuant to Sections 304(a)(8) and 304(a)(9). Pursuant to that authority, the Commission has adopted rules, on an interim basis, establishing the ceiling limitations at $2,000,000 and $5,000,000, respectively.[20]

The third category concerns all offerings that do not fall within the "small offering" provisions of Sections 304(a)(8) and 304(a)(9). Indentures in this category are subject to the extensive "qualification" provisions of the Trust Indenture Act. These provisions require, among other things, the use of an independent trustee and disqualification of the trustee if certain conflicts of interest exist. The indenture is required to include certain provisions designed to protect security holders and to impose on the trustee an affirmative duty to represent the security holders. The Trust Indenture Act allows smaller debt offerings to be issued without an indenture or a qualified indenture, recognizing, among other things, the relatively high cost that would be incurred in meeting these requirements.

In its recent legislative proposal to Congress recommending amendments to increase the ceiling limitations,[21] the Commission indicated that compliance with the Trust Indenture Act has become a significant burden to small issuers. The Commission also noted that the definitions, exemptions, requirements, and procedures for qualification of indentures and trustees under the Trust Indenture Act are closely integrated with the provisions of the Securities Act. Thus, the ceiling limitations prescribed in interim Rules 4a-1 and 4a-2 [17 CFR 260.4a-1 and 4-2] were established by the Commission at $2,000,000 and $5,000,000, respectively, to relate to the exemptive rules promulgated under Section 3(b) of the Securities Act and Form S-18.

In the Commission's view, an approach similar to that taken in defining "small business" and "small organization" under the Securities Act should be taken in defining "small business" and "small organization" under the Trust Indenture Act for purposes of evaluating the impact of such rules as required by the RFA. Considerations affecting small entities under the Trust Indenture Act should be determined in tandem with those under the Securities Act. Accordingly, the Commission is proposing to adopt a rule under the Trust Indenture Act defining "small business" and "small organization" as an issuer whose total assets on the last day of its most recent fiscal year were $2.5 million or less and that is engaged in small business financing; *i.e.*, any issuer that is engaged or proposes to engage in the offer and sale of debt securities which does not exceed the dollar amount prescribed in Rule 4a-2.

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[15] *Rule 242: A Monitoring Report on the First Six Months of Its Use* (December 1980).

[16] 17 CFR 239.28.

[17] *Form S-18: A Monitoring Report on Its Use in 1979* (March 1980).

[18] Prior to the enactment of the 1980 Act, the Section 304(a)(8) ceiling was limited to $250,000.

[19] Prior to the enactment of the 1980 Act, the Section 304(a)(9) ceiling was limited to $1,000,000.

[20] See Securities Act Release No. 6249 (October 23, 1980) [45 FR 71776].

[21] Hearings on S. 1533, S. 1940, and S. 2699 before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs; 96th Cong., 2nd Sess., 521 (1980).

C. *The Securities Exchange Act—Reporting Requirements, Tender Offers, Issuer Repurchases, Proxy Rules and Short-Swing Profits.*

The Commission is proposing definitions of "small business" and "small organization" for purposes of the RFA applicable to entities that are subject to the reporting and disclosure provisions of the Securities Exchange Act (Sections 12, 13, 14, 15(d) and 16) and to certain other defined activities and persons engaged in the securities industry that are regulated under the Securities Exchange Act.

The major thrust of the disclosure provisions of the Securities Exchange Act is to ensure the continuous public availability of adequate information about companies with publicly-traded securities. Prior to 1964, the disclosure provisions of the Securities Exchange Act applied only to issuers having securities listed and traded on a national exchange. Companies whose securities had not been registered under the Securities Act but which were traded in the over-the-counter market were not subject to the registration and reporting requirements of Sections 12 and 13.[22] In 1964, the scope of the disclosure provisions of the Securities Exchange Act was expanded [23] to include all issuers presumed to be the subject of active investor interest.[24]

Specifically, the 1964 amendments extended the registration provisions of Section 12 of the Securities Exchange Act to issuers of securities with both total assets in excess of $1 million and a class of equity securities held of record by 500 or more persons. Once its securities are registered, Section 13 of the Securities Exchange Act requires the issuer to file the annual, quarterly, and current reports prescribed by the Commission to keep current the information contained in the issuer's registration statement. In addition, all officers, directors and 10 percent shareholders of registered issuers must file certain ownership reports in accordance with Section 16(a) and are subject to the short-swing trading provisions of Section 16(b). Moreover, there are several other obligations that are imposed, in certain circumstances, upon persons owning, acquiring, or exercising investment discretion with respect to securities that are registered under Section 12.

Section 15(d) of the Securities Exchange Act was also amended in 1964 to provide that each issuer that files a registration statement that is declared effective pursuant to the Securities Act must also file with the Commission such supplementary, periodic and current reports as may be required with respect to a security registered pursuant to Section 12 of the Securities Exchange Act for the fiscal year in which the registration statement becomes effective. The duty to file reports continues for any subsequent fiscal year unless the securities of each class to which the registration statement relates are held by less than 300 persons at the beginning of the issuer's fiscal year.

As a consequence of these statutory provisions, the Securities Exchange Act imposes reporting obligations upon approximately 8,800 companies.

The legislative history of the 1964 amendments indicates that several criteria were studied from the standpoint of the disclosure needs of public investors. The Report stated:

> The characteristics that seemed prima facie most relevant—in addition to (i) number of shareholders and (ii) amount of assets, which had received primary attention in previous studies and exclusive attention in prior legislative proposals were (iii) transfers of stock, (iv) concentration of holdings, and (v) trading interest in interdealer markets. Number of shareholders has always been recognized, and obviously is, the most direct and simple criterion of public-investor interest. The amount of assets would seem to be no more than a secondary criterion at best, since for many reasons there is an absence of clear or necessary relationship between total assets and the equity interest of investors to be protected; *yet it may ultimately have relevance in defining a limit where burdens may be disproportionate to needs.*[25] *(Emphasis supplied).*

Theoretically, every security in which there is public investor interest could have been included. However, the Report indicated that it would be impracticable to key the Securities Exchange Act coverage to the Securities Act concept of "public," as defined in the *Ralston Purina* case,[26] since the Securities Exchange Act imposes continuing obligations. It was, therefore, necessary on purely practical grounds to limit the number of issuers required to comply in some manner that the flow of reports and proxy statements would be manageable from the regulatory standpoint while, at the same time, not disproportionately burdensome on the issuers in relation to the national public interest to be served.[27] Although the shareholder test was considered key in view of the statutory mandate to provide information to investors, the $1 million asset test was also included as relevant in defining the extent to which the compliance burdens could be met by the issuers involved.

On June 2, 1980, the Commission, in its reexamination of the question of compliance burdens under the Securities Exchange Act, announced that it was considering the advisability of classifying companies under the Securities Exchange Act so that defined classes of smaller issuers might have modified reporting and other requirements.[28] In addition to raising several questions about the desirability or feasibility of such a system, the release also requested commentators to recommend the specific criteria to be used to define a class of the smallest reporting companies as well as whether reporting obligations should be modified for them. Several criteria were suggested for establishing categories of issuers for which disclosure requirements may be modified that generally reflect trading interest or activity.[29] The most frequently suggested criteria, usually in combination with each other and/or others, were total assets and number of shareholders. Supporters of the number of shareholders as a criterion felt that it demonstrated investor interest in a company and thus was determinative of the need for continuing disclosure. With respect to assessing compliance burdens, however, several commentators stated that assets represents a simple and functional criterion for measuring an issuer's size in relation to the cost of complying with

[22] Prior to 1964, Section 15(d) of the Securities Exchange Act provided that all registration statements filed under the Securities Act contain an undertaking by the registrant to comply with the reporting requirements of Section 13. However, the undertaking became operative and the reports were required only when the value of the securities offered plus the value of all other outstanding securities of the same class equalled at least $2 million. The duty to file such reports was suspended if, and for as long as, the value of the securities outstanding was reduced to less than $1 million or the issuer had become subject to an equivalent reporting requirement. Consequently, investor protection in the over-the-counter market was, at best, fragmentary.

[23] 78 Stat. 565 [U.S. Code Cong. & Ad. News 2798 (1964)].

[24] Report of the Special Study of Securities Markets of the Securities and Exchange Commission, House Document No. 95, Pt. 3, House Committee on Interstate and Foreign Commerce, 88th Cong., 1st Sess. (1963) [hereinafter cited as "the Report"].

[25] *Id* at 18.

[26] *SEC* v. *Ralston Purina Co.*, 346 U.S. 119 (1953). In that case the Supreme Court held that the Securities Act "would seem to apply to a 'public offering' whether to few or many," and that the "focus of inquiry should be on the need of the offerees for the protections offered by registration" and their "access to the kind of information which registration would disclose." 346 U.S. at 125–127.

[27] The Report, *supra*, note 24 at 17.

[28] *See* Securities Exchange Act Release No. 16866 (June 2, 1980) [45 FR 40145].

[29] Summary of Comments relating to Classification of Exchange Act Reporting Companies, File No. S7–637.

securities regulation. Thus, it would appear that an asset test would be the most appropriate indicator of a "small business" or "small organization" for purposes of identifying those companies for which a proposed or adopted rule under the reporting and disclosure provisions of the Securities Exchange Act may have a disproportionate compliance burden. Accordingly, the Commission is proposing to amend its rules under the Securities Exchange Act by adding new Rule 0–10, 17 CFR 240.0–10. Rule 0–10 would define "small business" and "small organization," when used with reference to persons that are subject to Sections 12, 13, 14, 15(d) and 16 of the Securities Exchange Act, to mean any "issuer" or any "person" whose total assets on the last day of its most recent fiscal year were $2.5 million or less. This approach simply applies an inflationary adjustment to the $1,000,000 asset requirement established by Congress in 1964.[30] The Commission may consider the advisability of similar adjustments in the future, if appropriate.

The Commission notes that it has for some time been taking steps to facilitate the integration of the disclosure systems of both the Securities Act and the Securities Exchange Act, so that investors and the marketplace are provided meaningful, nonduplicative information, while the costs of compliance are decreased. The integration effort is based on the idea that, generally, there is no distinction between information that is material for the distribution of securities in transactions covered by the Securities Act on the one hand and for periodic reporting under the Securities Exchange Act on the other hand by companies whose securities are traded in the markets.[31]

As a result of this effort, there will be instances in which amendments to rules, forms and schedules under the Securities Exchange Act that are a part of the integrated disclosure system will also affect disclosures under the Securities Act. The Commission does not intend to imply, however, that an issuer that is subject to the reporting requirements of the Securities Exchange Act may furnish less disclosure in a limited size offering than would normally be furnished to the marketplace under the Securities Exchange Act. Therefore, any impact analysis of rules under the Securities Exchange Act that are a part of the integrated disclosure system will normally be expected to satisfy the similar analysis under the Securities Act.

To facilitate public comment in connection with the Commission's proposed size standards for issuers under the Securities Act, the Trust Indenture Act, and the Securities Exchange Act, the Commission is publishing as a part of this release data compiled by the Directorate of Economic and Policy Analysis. The following table presents the distribution of issuers that are subject to the reporting requirements of Sections 13 and 15(d) by total asset size and was originally presented as part of the Commission's release on the classification of small issuers for purposes of the Securities Exchange Act. (See Securities Exchange Act Release No. 34–16866 (June 2, 1980) [45 FR 40145]).

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[30] From 1964 to 1979, the general price level has increased by 128 percent, as measured by the implicit price deflators for Gross National Product. The deflator for Gross Private Fixed Investment, which includes such business assets as plant and equipment, indicates a 147 percent price increase over the same period. If the latter index is a reasonable proxy for price inflation affecting business capital, a simple inflationary adjustment to the $1 million total asset threshold established for reporting purposes by the 1964 Amendments would result in a $2,470,000 asset threshold in 1979.

[31] This principle has led to the development and expansion of Regulation S–K (17 CFR 229.20), a technical device designed to state in one place uniform requirements which both Securities Act and Securities Exchange Act items incorporate by reference. It also has led to the adoption of Form S–16 (17 CFR 239.27), the short form to be used for the registration of securities by certain seasoned issuers, and the recently adopted Form S–15 (17 CFR 239.29), the short form to be used for the registration of securities issued in certain business combinations. Securities Act Release No. 6232 (September 2, 1980) [45 FR 63647]. Most recently, the Commission has proposed three new registration statement forms under the Securities Act. Securities Act Release No. 6235 (September 2, 1980) [45 FR 63693]. These initiatives provide for the incorporation by reference or furnishing of periodic reports filed under the Securities Exchange Act.

Classification by Total Asset Size of Selected 12(b), 12(g) and 15(d) Issuers
(Estimates Based on Representative Sample)

Number of Issuers 1/

Total Assets (Millions of Dollars)	12(b) Issuers Number	12(b) Issuers Percent	12(g) Issuers Number	12(g) Issuers Percent	15(d) Issuers Number	15(d) Issuers Percent	Total Number	Total Percent
Less than 1	*	*	81	2	128	14	209	2
1 - 2	*	*	365	8	90	9	455	5
2 - 3	*	*	325	7	51	5	376	4
3 - 5	33	1	365	8	90	9	488	5
5 - 10	100	3	812	17	102	11	1014	11
10 - 50	654	21	1705	35	230	24	2589	29
50 - 100	318	10	528	11	64	7	910	10
100 - 1000	1222	39	487	10	166	18	1875	21
1000 and over	770	25	162	3	26	3	958	11
Totals	3097	100	4830	100	947	100	8874	100
Average Total Assets in Millions of Dollars:								
Mean	957		114		96		407	
Median	230		14		12		47	

*The number of issuers in this cell is less than 0.5% of the total of 379 active issuers in the sample.

1/ The number of issuers in each asset range was derived from a randomly chosen sample of all issuers filing under the Exchange Act as reported in the SEC Corporation Index, March 30, 1979. Excluded are issuers which are employee thrift or stock purchase programs, investment companies, foreign issuers appearing in the "Foreign Government and Foreign Private Issuers" section of the SEC Corporation Index, or those for which there is no record of a Form 10-K report having been filed for a fiscal year ending between July 1, 1978 and June 30, 1979.

SOURCES: SEC Corporation Index, March 30, 1979 and Form 10-K reports filed with the Securities and Exchange Commission covering the fiscal year ending July 1, 1978 through June 30, 1979. Directorate of Economic and Policy Research, Securities and Exchange Commission.

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D. *The Securities Exchange Act—Brokers, Dealers and Other Regulated Entities.*

As noted above, the Commission is also proposing definitions of the terms "small business" and "small organization" for purposes of the RFA with respect to certain entities in the securities industry whose activities are regulated by the Commission pursuant to the Securities Exchange Act. Those entities are brokers, dealers, clearing agencies, exchanges, issuers, bank municipal securities dealers, securities information processors, and transfer agents.

In establishing size standards for these entities, the Commission has considered, among other things, the number of firms, industry competition, barriers to entry, distribution of revenues, number of employees, financial resources in the industry, and the provisions and purposes of the Securities Exchange Act that form the predicate for regulation by the Commission. Also, two attributes were considered desirable in a size standard. They were: (1) the capacity to differentiate the small members of an industry subject to a rule from other members of the industry; and (2) the use of standards derived from available information.

The definitions in proposed Rule 0–10 generally incorporate the concept of affiliation and provide that a broker-dealer, clearing agency, bank municipal securities dealer, securities information processor or transfer agent is not a small business or small organization if that entity is affiliated with any person (other than a natural person) that is not a small business or small organization as defined in Rule 0–10. A person is affiliated with another if that person controls, is controlled by, or is under common control with such other person. Control constitutes the right to vote 25% or more of the voting securities of an entity, the right to receive 25% or more of the net profits of such entity or the ability otherwise to direct or cause the direction of the management or policies of such entity.

The Commission believes that the Congress did not intend to confer the benefit of any determination that an entity is small upon the affiliates of large businesses, because only those businesses and organizations that are "independently owned" may qualify as small entities pursuant to the definitions contained in the RFA.[32] Accordingly, the Commission believes that it is appropriate to take into account the structure of business concerns and organizations in the securities industry when defining the terms "small business" and "small organization" and to preclude entities with significant economic or financial resources from obtaining potential regulatory benefits under the RFA.

1. *Brokers or Dealers.* With respect to a broker[33] or dealer,[34] proposed Rule 0–10 defines the terms "small business" or "small organization" as a broker or dealer (1) that may maintain net capital of not less than $2,500 or $5,000 as provided for in Rule 15c3–1 (a)(2) or (a)(3); (2) that had less than six partners, officers and employees on the last business day of the preceding calendar year; and (3) that is not affiliated with any entity that is not a small entity as defined in Rule 0–10.

The Commission believes that it is appropriate to measure the size of a broker-dealer by reference to applicable net capital requirements. Those requirements take into account the nature of a broker-dealer's business and tend to provide for lower capital requirements for smaller, specialized firms that have not developed full service brokerage operations.[35] Furthermore, all broker-dealers are aware of their own net capital requirements. Accordingly, by using a standard that is familiar to the industry, and for which data are currently available, the Commission believes that it will be possible to minimize any doubt concerning a firm's status and more easily determine the number of broker-dealers that are small entities.

The proposed definition also includes as size standard a limitation on the number of partners, officers, and employees associated with a firm. On the basis of available employment data for the securities industry, the Commission is inclined to believe that any broker-dealer having more than five partners, officers and employees should not be considered "small."[36]

To facilitate public comment in connection with the Commission's efforts to develop size standards for broker-dealers, the Commission is publishing as a part of this release data compiled by the Commission's Directorate of Economic and Policy Analysis from the FOCUS Reports filed by broker-dealers for 1979. That data shows the distribution of broker-dealers on the basis of equity capital, total assets, gross revenues, number of full-time employees and number of full-time registered representatives.

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[32] *See* 5 U.S.C. 601(4) and 15 U.S.C. 632.

[33] The term "broker" is defined in Section 3(a)(4) of the Securities Exchange Act.

[34] The term "dealer" is defined in Section 3(a)(5) of the Securities Exchange Act.

[35] The broker-dealers who may take advantage of these provisions include, generally, those who introduce and forward as a broker all transactions and accounts to another broker or dealer who carries such accounts on a fully-disclosed basis; those broker-dealers who do not carry customer accounts or hold customer funds or securities; and those broker-dealers who engage solely in the sale of redeemable shares of registered investment companies and certain other share accounts. Data compiled by the Commission's staff from the Financial and Operational Combined Uniform Single Report (the "FOCUS Report") indicate that approximately 1,300 broker-dealers maintain net capital of $2,500 or $5,000.

[36] Data compiled by the Commission's Directorate of Economic and Policy Analysis from 1979 FOCUS Reports indicate that approximately 3500 broker-dealers have less than 6 employees.

DISTRIBUTION OF BROKER-DEALERS BY EQUITY CAPITAL, TOTAL ASSETS AND GROSS REVENUES
(1979)

Equity Capital

Equity Capital ($ Millions)	Number of Firms		Percent of Total Firms		Aggregate Equity Capital ($ Millions)		Percent of Industry Aggregate Equity Capital		Average Capital ($ 000)
	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative	
More than $40	27	27	.6%	.6%	$3,118.9	$3,118.9	50.6%	50.6%	$ 115,515
$15 - $40	35	62	.7	1.3	779.5	3,898.4	12.6	63.2	22,271
$8 - $15	46	108	.9	2.2	500.6	4,399.0	8.1	71.3	10,883
$5 - $8	61	169	1.3	3.5	383.8	4,782.8	6.3	77.6	6,292
$2.3 - $5	137	306	2.8	6.3	463.8	5,246.7	7.5	85.1	3,385
$1.3 - $2.3	148	454	3.0	9.3	253.9	5,500.6	4.1	89.2	1,716
$.45 - $1.3	434	888	8.9	18.2	327.5	5,828.1	5.3	94.5	755
$.22 - $.45	497	1,385	10.2	28.4	155.2	5,983.3	2.5	97.0	312
$.12 - $.22	539	1,924	11.1	39.5	89.4	6,072.7	1.5	98.5	166
$0 - $.12	2,444	4,368	50.3	89.8	105.5	6,178.2	1.7	100.2	43
$0	426	4,794	8.7	98.5	—	6,178.2	—	—	—
Negative 1/	73	4,867	1.5	100.0%	(9.7)	6,168.5	(0.2)	100.0%	$ (133)
Total	4,867		100.0%		$6,168.5		100.0%		$1,267

Total Assets

Total Assets ($ Millions)	Number of Firms		Percent of Total Firms		Aggregate Total Assets ($ Millions)		Percent of Industry Aggregate Total Assets		Average Asset ($ 000)
	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative	
More than $500	26	26	.5%	.5%	$67,850.9	$67,850.9	78.4%	78.4%	$2,609,650
$100 - $500	40	66	.8	1.3	7,873.9	75,724.8	9.1	87.5	196,847
$50 - $100	42	108	.9	2.2	3,061.9	78,786.7	3.5	91.0	72,902
$30 - $50	54	162	1.1	3.3	2,138.5	80,925.2	2.5	93.5	39,602
$11 - $30	132	294	2.7	6.0	2,403.6	83,328.8	2.8	96.3	18,209
$5 - $11	154	448	3.2	9.2	1,116.1	84,444.9	1.3	97.6	7,247
$1.5 - $5	421	869	8.7	17.9	1,156.0	85,600.9	1.3	98.9	2,746
$.6 - $1.5	511	1,380	10.5	28.4	489.5	86,090.4	.6	99.5	958
$.3 - $.6	510	1,890	10.5	38.8	220.3	86,310.7	.2	99.7	432
$0 - $.3	2,573	4,463	52.9	91.7	222.0	86,532.7	.3	100.0%	86
$0	404	4,867	8.3	100.0%	—	86,532.7	—		$ —
	4,867		100.0%		$86,532.7		100.0%		$17,779

Gross Revenues

Gross Revenues ($ Millions)	Number of Firms		Percent of Total Firms		Aggregate Gross Revenues ($ Millions)		Percent of Industry Aggregate Gross Revenues		Average Revenues ($ 000)
	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative	
More than $100	26	26	.5%	.5%	$8,243.2	$8,243.2	60.3%	60.3%	$317,046
$25 - $100	37	63	.8	1.3	1,655.2	9,898.4	12.1	72.4	44,735
$15 - $25	43	106	.9	2.2	838.1	10,736.5	6.1	78.6	19,491
$9 - $15	59	165	1.2	3.4	676.0	11,412.5	4.9	83.5	11,458
$4 - $9	137	302	2.8	6.2	795.3	12,207.8	5.8	89.4	5,805
$2.3 - $4	145	447	3.0	9.2	450.3	12,658.1	3.3	92.7	3,105
$.75 - $2.3	424	871	8.7	17.9	576.1	13,234.2	4.2	96.9	1,359
$.3 - $.75	504	1,375	10.4	28.3	245.1	13,479.3	1.8	98.7	486
$.14 - $.3	526	1,901	10.8	39.1	111.5	13,590.8	.8	99.5	212
$0 - $.14	1,643	3,544	33.7	72.8	74.8	13,665.6	.6	100.0	46
$0	1,202	4,746	24.7	97.5	—	13,665.6	—	—	-
Negative 2/	121	4,867	2.5	100.0%	(3.5)	13,662.1	*	100.0%	(29)
Total	4,867		100.0%		$13,662.1		100.0%		$ 2,807

1/ Negative Equity Capital reflects the decline of Total Assets below Total Liabilities due to realized and unrealized losses on trading and investment accounts.

2/ Negative Gross Revenues reflect losses on trading and investment accounts.

* Less than .05%

DISTRIBUTION OF BROKER-DEALERS BY NUMBER OF FULL-TIME EMPLOYEES
(As of December 31, 1979)

Full-Time Employees	Number of Firms		Percent of Total Firms	
	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative
Over 1,000	22	22	.5%	.5%
300 - 999	60	82	1.3	1.8
100 - 299	95	177	2.0	3.8
50 - 99	131	308	2.8	6.6
20 - 49	276	584	5.8	12.4
10 - 19	296	880	6.3	18.7
6 - 9	307	1,187	6.6	25.3
3 - 5	502	1,689	10.7	36.0
1 - 2	855	2,544	18.2	54.2
0	2,153	4,697	45.8	100.0%
Total	4,697		100.0%	

DISTRIBUTION OF BROKER-DEALERS BY NUMBER OF FULL-TIME REGISTERED REPRESENTATIVES
(As of December 31, 1979)

Registered Representatives	Number of Firms		Percent of Total Firms	
	Non-Cumulative	Cumulative	Non-Cumulative	Cumulative
Over 500	18	18	.4%	.4%
150 - 499	54	72	1.2	1.5
50 - 149	93	165	2.0	3.5
25 - 49	106	271	2.3	5.8
10 - 24	269	540	5.7	11.5
5 - 9	298	838	6.3	17.8
3 - 4	310	1,148	6.6	24.4
2	254	1,402	5.4	29.8
1	442	1,844	9.4	39.3
0	2,853	4,697	60.7	100.0%
Total	4,697		100.0%	

Note: A full-time employee is defined as an individual who works 40 hours or more per week for a firm. A full-time registered representative is an individual who works 30 hours or more per week for a firm and spends at least 50% of such time effecting transactions with public customers on the firm's behalf.

Source: FOCUS Report
Directorate of Economic and Policy Analysis
Securities and Exchange Commission

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2. *Clearing Agencies.* With respect to clearing agencies, the proposed rule defines "small business" and "small organization" as a clearing agency[37] that meets three tests. First, the clearing agency must have processed less than $500 million in securities transactions during the preceding fiscal year (or in the time that it has been in business, if shorter). Second, the clearing agency must have had less than $200 million of funds and securities in its custody or control at all times during the preceding fiscal year (or in the time that it has been in business, if shorter). Finally, the clearing agency must not be affiliated with any intity that is not a small business or small organization as defined in Rule 0–10.

The Commission believes it should measure the size of a clearing agency on the basis of the value of funds and securities that it has processed or that it holds in its custody. The Securities Exchange Act directs the Commission, among other things, to use its authority over clearing agencies to establish a national clearance and settlement system for securities, and to encourage broad scale participation by securities professionals in that system, thereby reducing the physical movement of securities certificates. The Congress recognized that achievement of these goals could result in the accumulation of very substantial amounts of securities and funds in a limited number of entities. Also, the Congress has determined that the safeguarding of funds and securities related to the clearance or settlement of securities transactions is necessary for the protection of investors and persons acting on behalf of investors.[38] Accordingly, the Commission believes that, in carrying out its regulatory responsibilities with regard to clearing agencies, it should pay particular regard to the amount of funds and securities which a clearing agency is holding on behalf of others or with respect to which it is performing processing functions related to the clearance and settlement of securities transactions.

The Commission believes that the benchmark figures for processing and custody, are appropriate measures for determining whether or not a clearing agency is small for the purpose of the RFA. While those benchmarks will exclude all currently registered clearing agencies from the definitions of "small business" and "small organization," they could permit newly-established clearing agencies to qualify as small entities. In that connection, it is also important to note that most, if not all, currently registered clearing agencies appear to be affiliated with national securities exchanges or other entities that would not be "small businesses" or "small organizations" under proposed Rule 0–10.

3. *Exchanges.* There are ten securities exchanges currently registered with the Commission. Each is a membership organization and, except for the Midwest Stock Exchange, each is organized as a not-for-profit corporation. As membership organizations, many of the exchanges include as members the largest broker-dealers in the United States. The exchanges play an important function in the American economy and in the regulatory scheme established by Congress in the Securities Exchange Act. In addition to providing a marketplace for the trading of billions of dollars in securities, the exchanges are designated "self-regulatory organizations" under the Securities Exchange Act and have substantial responsibility for enforcing member compliance with the federal securities laws.[39]

While the Commission believes that it is doubtful that the Congress intended for the RFA to apply to exchanges, the Commission is proposing a definition of "small business" and "small organization" applicable to exchanges.[40] The proposed rule would define as "small" those exchanges that are exempt from the requirements of the rule regarding dissemination of transaction reports and last sale data with respect to transactions in securities (17 CFR 240.11Aa3–1). That rule sets forth certain requirements applicable to exchanges and other entities concerning the dissemination of transaction reports and last sale data with respect to transactions in reported securities. The requirements of that rule are intended to encourage the prompt and widespread availability of transaction information, and the rule is a part of the Commission's effort to facilitate the establishment of a national market system. The Commission believes that those exchanges that are exempt from the requirements of Rule 11Aa3–1 may appropriately be considered "small." The Spokane Stock Exchange and the Intermountain Stock Exchange have been granted exemptions under Rule 11Aa3–1, in part because those two exchanges also have the lowest trading volume in securities. They also have the lowest annual revenues of the ten national securities exchanges.

4. *Bank Municipal Securities Dealers.* The Commission is proposing to define the terms "small business" and "small organization," when used with respect to a bank municipal securities dealer, to mean a municipal securities dealer[41] that (1) had total assets of less than $10 million at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); (2) had an average monthly dollar volume of municipal securities transactions in the preceding fiscal year of less than $100,000; and (3) that is not affiliated with any entity that is not a small business as defined in Rule 0–10.

The proposed definition uses total asset size and municipal securities transaction volume in order to identify banks that may be sufficiently small to face special problems in complying with regulations, particularly those relating to operations and recordkeeping. The two standards were selected because, if a bank with low asset size engages in a substantial volume of transactions, that volume should generate sufficient revenues to support the costs of compliance.

The "total assets" used in the definition would be the assets of the municipal securities dealer, if the entire bank is registered, or those of the bank of which the department or division is a part, if the dealer is registered as a separately identifiable department or division. This standard appears appropriate because a separate asset figure for the department would be difficult to derive and, more importantly, because the concept of a separately identifiable department or division was developed for registration purposes and does not prescribe the actual organizational structure of the bank. Accordingly, a number of municipal securities dealer functions of a bank, including processing and recordkeeping, are frequently performed by the bank in conjunction with other similar bank activities. The use of the "total assets" figure also is consistent with the use, in the Small Business Act, of a definition of "small business" which includes as a component the requirement that the

[37] The term "clearing agency" is defined in Section 3(a)(23) of the Securities Exchange Act.

[38] *See* Section 17A of the Securities Exchange Act.

[39] The National Association of Securities Dealers, Inc. (the "NASD") and the Municipal Securities Rulemaking Board (the "MSRB") are also self-regulatory organizations (*see* Section 3(a)(26) of the Securities Exchange Act). The NASD is the sole registered securities association and the MSRB, created by Congress in 1975, has certain statutory responsibilities for the municipal securities industry (*see* Sections 15A and 15B of the Securities Exchange Act). Neither the MSRB nor the NASD is a "small business" or "small organization."

[40] The term "exchange" is defined in Section 3(a)(1) of the Securities Exchange Act.

[41] The term "municipal securities dealer" is defined in Section 3(a)(30) of the Securities Exchange Act.

entity be "independently owned and operated." [42]

5. *Securities Information Processors.* Proposed Rule 0-10 would define the terms "small business" and "small organization" with respect to securities information processors as any securities information processor [43] that (1) had gross revenues of less than $10 million during the preceding year (or in the time it has been in business, if shorter); (2) serviced less than 100 interrogation devices or moving tickers, as those terms are defined in 17 CFR 240.11Aa3-1, at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and (3) is not affiliated with any entity that is not a small business or small organization as defined in the rule.

The Commission believes that a combination of gross revenues and the number of interrogation devices serviced provides an appropriate measure of size for those businesses that provide securities information services to the securities industry and the public. There are approximately fifteen securities information processors now subject to Commission rules, and under the proposed rule it appears that three of those firms would be considered "small businesses."

6. *Transfer Agents.* Proposed Rule 0-10 defines the terms "small business" and "small organization" when used with reference to transfer agents to mean a transfer agent [44] that (1) received fewer than 500 items for transfer and fewer than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter); (2) maintained master shareholder files that, in the aggregate, contained less than 1000 shareholder accounts or was the named transfer agent for less than 1000 shareholder accounts at all times during the preceding six months (or in the time that it has been in business if shorter); and (3) is not affiliated with any entity that is not a small business or small organization as defined in proposed Rule 0.10.

The Commission believes that volume of transfer business is one reasonable basis for distinguishing small from large transfer agents. The requirement in the proposed definition with respect to volume of transfer business is derived from Rule 17Ad-4(b), 17 CFR 240.17Ad-4(b), which exempts from most of the transfer agent turnaround rules (Rules 17Ad-1 through 17Ad-7, 17 CFR 240.17 Ad-1 through 7) registered transfer agents handling issues with a minimal amount of trading activity or changes in registered ownership. The proposed definition also requires that, in order to be deemed small, a transfer agent must have maintained master shareholder files that in the aggregate contained less than 1000 shareholder accounts or been the named transfer agent for less than 1000 shareholder accounts at all times during the preceding six months (or in the time that it has been in business, if shorter). The proposed definition potentially will permit many issuers acting as the transfer agent for their own securities to be included in the definition of small business. [45]

E. *Public Utility Holding Companies.* The Commission has also concluded that it is desirable to adopt a special definition of the terms "small business" and "small organization" for purposes of the RFA to apply to rulemaking under the Holding Company Act. In this connection, the Commission does not believe that the Small Business Act and regulations promulgated by the SBA provide size standards that are appropriate for public utility holding companies. [46] Moreover, the Commission believes that the size standards currently in use in connection with federal programs to assist small manufacturing or service enterprises are not appropriate for measuring the impact of rules on small entities that are in "holding company" systems under the Holding Company Act.

Under the Holding Company Act, the Commission exercises comprehensive authority over the issuance of securities or the acquisition of securities or utility assets by registered holding companies and their subsidiaries, intrasystem transactions, and accounting requirements, among other things. A "holding company" is defined under the Holding Company Act as any company which owns 10% or more of the voting securities of a public utility company, which is defined as an electric or gas utility company. [47] While the Holding Company Act also provides definitions of "electric utility company" and "gas utility company," the basic regulated unit for purposes of the Holding Company Act is the "holding company system," which is defined to include the holding company and each subsidiary company which is a member of that system, [48] whether it is a utility subsidiary or a non-utility subsidiary.

The Commission further believes that it is appropriate to assess the burdens of regulation under the Holding Company Act for purposes of the RFA by reference to the size of the holding company system as a whole, rather than by reference to its member companies, for three reasons. First, the holding company system is a single control group. As a general matter, most subsidiaries of the registered holding companies are wholly-owned and, thus, would not, within the meaning of Section 3 of the Small Business Act, be considered "independently owned." Second, while most holding companies own more than one public utility subsidiary, the Holding Company Act requires that all such subsidiaries constitute but a single integrated public utility system. [49] And third, the regulatory provisions of the Holding Company Act generally apply to the holding company and to each of its subsidiaries; that is, to the entire holding company system. Accordingly, the proposed rule would establish a definition of the terms "small business" and "small organization" for purposes of the RFA with respect to "holding company systems."

Proposed Rule 110, 17 CFR 250.110, defines the terms "small business" or "small organization" as a holding company system whose consolidated revenues from electric or gas utility operations did not exceed $1,000,000 in its last fiscal year. The Commission believes that it is appropriate to measure the size of a holding company system by reference to its consolidated gross utility revenues, a standard familiar to the industry and for which

[42] The Commission is not aware that any of the currently registered bank municipal securities dealers would qualify as "small."

[43] The term "securities information processor" is defined in Section 3(a)(22)(A) of the Securities Exchange Act.

[44] The term "transfer agent" is defined in Section 3(a)(25) of the Securities Exchange Act.

[45] The Commission does not have readily available data upon which to compute the precise number of transfer agents that would be considered small but believes as many as 10 to 20% could qualify.

[46] The SBA's small business size standards, contained in 13 CFR Part 121 (1980), do not include a size standard which is appropriate or practicable to apply in the context of rulemaking under the Holding Company Act. Only one subsection thereof, 13 CFR 121.33-10(d)(11), deals expressly with electric or gas utility companies. That subsection classifies as "small," for purposes of SBA loans, a concern primarily engaged in the generation, transmission and/or distribution of electric energy for sale whose total output (including that of its affiliates) for the preceding fiscal year did not exceed 4 million megawatt hours. The SBA has proposed for comment amendments to its size standard regulations. Small Business Size Standards; Revision to Method of Establishing Size Standards and Definitions of Small Business, 45 FR 15442 (March 10, 1980). The proposed standards are all stated in terms of number of employees. *Id.* at 15443. Although electric and gas services are listed in the heading of Major Group 49 therein, there are no proposed size standards for electric or gas utilities. *Id.* at 15449.

[47] Sections 2(a)(7)(A) and 2(a)(5).

[48] Section 2(a)(9).

[49] Section 11(b)(1).

data are currently available. In establishing this size standard, the Commission has considered, among other things, the number of firms in the industry and the purposes of the Holding Company Act that form the predicate for regulation by the Commission. Holding companies, as such, do not constitute a relevant industry group. The relevant industry is the electric and gas utility industry. Upon the basis of available data, the Commission estimates that there are approximately 218 investor-owned electric utility companies, and 520 investor-owned gas utility companies, of which it is believed approximately 14 and 200, respectively, have utility revenues below $1,000,000.[50]

There are currently nine registered electric utility holding company systems and three registered gas utility holding company systems that include 53 wholly or partly owned electric utility subsidiaries and 19 gas distribution and transmission subsidiaries. Under the proposed size standard, none of the currently registered holding company systems would be considered a small entity.

F. *Investment Companies and Investment Advisers.*

The Commission is also proposing definitions of the terms "small business" and "small organization" for purposes of the RFA in the context of rulemaking applicable to investment companies under the Securities Act, the Securities Exchange Act and the Investment Company Act, and to investment advisers under the Advisers Act. The Commission is proposing these rules because the definition of "small business" in the Small Business Act may be inappropriate in the context of the investment company and the investment advisory industries. If adopted, the proposed definitions would assist the Commission in fitting the requirements of its regulations to the size of the investment companies and investment advisers subject to them.

Existing SBA size standards would appear to be inappropriate for identifying small investment companies and investment advisers. These size standards are intended to enable the SBA to determine which entities within an industry qualify for various forms of SBA assistance. The closest category of industry under which an investment company or investment adviser could conceivably come is "service" industry, and, assuming that such a company or adviser is primarily engaged in a service industry, it would be deemed small, for the purpose of receiving a loan, if its annual receipts do not exceed $2 million.[51]

This receipt standard does not seem appropriate for identifying small investment companies since, unlike typical service companies, investment companies generally serve only their shareholders as such and, thus, have no receipts from the sale of services. Moreover, if the income (*i.e.*, interest and dividends) of these companies were deemed to be their receipts, the amount thereof would not necessarily identify the companies that are small because different investment companies have different investment objectives and receipts can vary depending upon the investment objective of a company. For example, between an investment company whose objective is growth and one whose objective is income, assuming equal assets, the former would usually have smaller receipts than the latter.

Neither does the receipt standard seem appropriate for identifying small investment advisers, since the Commission has no information about the receipts of investment advisers and, thus, would have difficulty in applying this standard.

Although the SBA has published proposed new size standards,[52] none of them seems to be applicable to investment companies or investment advisers, except to the extent that investment advisers who publish market letters might be deemed to be engaged in "miscellaneous publishing."[53] This proposed size standard would classify as small any business concern engaged in "miscellaneous publishing" if it has 500 or fewer employees.[54] Since it is unlikely that any investment adviser that publishes a market letter has anywhere near 500 employees, this standard would embrace all such advisers and, thus, would not serve to identify those that are small among this type of advisers. For this reason, such a standard would not serve the purposes of the RFA.

Aware that the SBA has expressed its proposed size standards in terms of the number of employees, rather than in dollars, to avoid distortions caused by inflation and the need for frequent revision of standards to reflect the effects in inflation, the Commission considered using the number of employees as a measure of smallness for investment companies and investment advisers, but rejected it since (1) neither the investment company nor the advisory industry is labor intensive; and (2) investment companies are generally externally managed and operated by their investment advisers so that most investment companies have few employees.

In view of the absence of an appropriate definition in, or size standard under, Section 3 of the Small Business Act, the Commission is proposing for public comment definitions of "Small business" and "small organization" for purposes of the RFA that it believes would be appropriate to the regulation of investment companies and investment advisers. The Commission would use these definitions in determining whether a rule has, or a proposed rule is likely to have or will have, a significant economic impact on a substantial number of small entities for purposes of complying with the requirements of the RFA.

For these purposes, the Commission has separately considered (1) investment companies; (2) investment advisers who manage assets and do not furnish other advisory services; and (3) other investment advisers, because the feasibility of any size standard with respect to each of these types of businesses will depend on the particular characteristics of the business, the available data about the business, and the regulations to which the business is subject.[55]

With respect to investment companies, the proposed rules would classify as small any investment company with net assets of $50 million or less as of the end of its most recent fiscal year. This size standard was derived from an examination of adjusted expense ratios of approximately 500 registered investment companies.[56] This examination identified a group (14%) of the sample investment companies which had expense ratios exceeding a

[50] Source: "Electric Utility Statistics." *Public Power*, Jan.-Feb. 1981, p. D-3; Federal Energy Regulatory Commission Form 1's for Class C and D electric utility companies (1979); Statistics supplied by the American Gas Association.

[51] 13 CFR 121.3-10(d)1.

[52] 45 FR 15450 (1980).

[53] Code 2741, Standard Industrial Classification Manual (1972).

[54] 45 FR 154547 (1980).

[55] Investment companies are, of course, subject to a set of regulations different from that governing investment advisers, and investment advisers that render certain advisory services are sometimes regulated differently from other advisers. *See, e.g.*, 17 CFR 275.204-3 and 275.206(3)-1.

[56] An expense ratio is the quotient of expenses divided by average net assets. The adjusted expense ratio is computed by subtracting any taxes, interest, securities loan fees, or dividends from securities sold short from the fund's total expenses and dividing the remaining total by average net assets. The goal of this approach is to extract from the ratios those expenses which are an accident of place (taxes) or a function of an investment program (interest, securities loan fees, etc.) and do not properly belong in a comparison of operating expenses.

statistically defined boundary, namely, the mean (average) adjusted expense ratio plus one standard deviation. This boundary establishes a basis for distinguishing relatively large ratios from those closer to or below the average and is based on statistical characteristics of the overall distribution of the ratios. The net assets of the companies with adjusted expense ratios exceeding this boundary range from $6 million to $47.2 million. Moreover, all of the companies with net assets of more than $47.2 million had expense ratios falling below this boundary. Since companies with high expense ratios would generally be more adversely affected by the imposition of regulatory costs than those with lower expense ratios, the Commission believes that it is reasonable and appropriate, for purposes of the RFA, to classify as a "small business" or "small organization" an investment company with a net asset value of $50 million or less. The Commission proposes to use net assets instead of expense ratios in this definition because this measure would be easy to use and is based upon readily available information.

With respect to investment advisers who manage assets but do not render other advisory services,[57] the proposed definition of "small business" or "small organization" would classify as small an investment adviser that manages assets with a total value of $50 million or less, in discretionary or non-discretionary accounts, as of the end of its most recent fiscal year. The Commission is proposing this size standard because of the similarities, with respect to the management of assets, between the investment company and the investment advisory businesses.

With respect to investment advisers that solely, or in addition to managing assets of $50 million or less, render other advisory services, the proposed definition of "small business" would classify as small an investment adviser with assets related to its advisory business, as shown in the balance sheet most recently filed by it with the Commission, not exceeding in value 50% of the average business-related assets for this type of investment adviser.[58] The Commission expects to determine such average assets from the balance sheets in its files and to express this size standard in dollars in the final rule. Other criteria such as receipts or numbers of subscribers could be relevant, but as indicated elsewhere in this release, the Commission does not require that data to be filed by investment advisers.

There are about 2,100 registered investment advisers that manage assets in discretionary or non-discretionary accounts. They manage a total of about $435 billion of assets, an average of approximately $200 million of assets per adviser. The Commission believes that the distribution based on assets managed is heavily skewed at both extremes, with a great many of the advisers managing relatively small amounts of assets and few of the advisers managing relatively large amounts of assets. Indeed, a random sample of 182 of these advisers showed that 134 (or approximately 74%) had assets under management of $50 million or less. Some of these advisers probably furnish advisory services other than managing assets and have assets related to their investment advisory business exceeding 50% of the average business-related assets for this type of investment adviser and, thus, may not be small under the proposed definition. Although using $50 million as the cut-off point might classify as small a large proportion of investment advisers, the Commission believes that this is reasonable and appropriate under the circumstances for purposes of the RFA.

Since, in essence, the purpose of the RFA is to lighten the burden of federal regulation on small businesses, the Commission urges all interested persons, especially small investment companies and advisers or their representatives to comment on all aspects of these rule proposals and to recommend alternative criteria for identifying the "small" entities in the investment company and the investment advisory industries. To facilitate such commentary, the following tables provide certain basic data relating to investment companies. Similar data, however, is not currently available for investment advisers.

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[57] As used in the proposed definition, the term "other advisory services" means services referred to in Form ADV, 17 CFR 279.0-1, Part II, item 1(c) through (h).

[58] The Commission considered using a size standard expressed in terms of the number of subscribers but rejected it since the Commission has no information concerning the number of these subscribers.

TABLE 1

DISTRIBUTION OF THE NUMBER OF SELECTED INVESTMENT COMPANIES BY TYPE AND ASSET SIZE CATEGORY *

Asset Size Category ($Millions)	Open-end Except Money Market funds	Money Market Funds	Closed End Funds	Unit Invest. Trusts	Face Amount Cert. Cos.	Total Number	Percentage of Total
0 to 25	273	7	52	170	4	506	48.4
25 to 50	95	5	22	23	1	146	14.0
50 to 100	92	10	20	14	0	136	13.0
100 to 250	89	12	14	14	0	129	12.3
250 to 1,000	58	28	5	6	0	97	9.3
1,000 plus	7	21	0	3	0	31	3.0
Total Number	614	83	113	230	5	1,045	100.0

TABLE 2

DISTRIBUTION OF TOTAL NET ASSETS OF SELECTED INVESTMENT COMPANIES BY TYPE AND ASSET SIZE CATEGORY *

Asset Size Category ($Millions)	Open-end Except Money Market funds	Money Market Funds	Closed End Funds	Unit Invest. Trusts	Face Amount Cert. Cos.	Total Net Assets	Percentage of Total
	($Millions)						
0 to 25	$ 2,500	$ 72	$ 531	$ 922	$23	$ 4,048	2.4
25 to 50	3,532	188	834	169	29	4,752	2.9
50 to 100	6,185	713	1,476	918	0	9,292	5.6
100 to 250	13,570	1,846	2,213	2,106	0	19,735	11.9
250 to 1,000	28,282	13,629	2,867	2,758	0	47,536	28.7
1,000 plus	10,119	60,061	0	9,979	0	80,159	48.4
Total net assets	$64,188	$76,509	$7,921	$16,852	$52	$165,522	100.0

* As of September 30, 1980

Source: Classification, Assets and Location of Registered Investment Companies under the Investment Company Act of 1940, Securities and Exchange Commission, February 17, 1981.

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III. Procedural Rules

The Commission is also considering proposing procedural rules to implement the RFA. In this connection, the Commission requests comments on the possible content of such procedural rules, and particularly on the need for definitions of other generic terms used in the RFA, such as "significant economic impact" and "substantial number." Any procedural rules, including definitions of other terms used in the RFA, will be the subject of a separate release.

Text of Proposals

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended by adding § 230.157 to read as follows:

§ 230.157 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act [5 U.S.C. 601 *et seq.*], and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small busiess" or "small organization" shall—

(a) When used with reference to an issuer, other than an investment company, for purposes of the Securities Act of 1933, mean an issuer whose total assets on the last day of its most recent fiscal year were $2.5 million or less that is engaged or proposing to engage in small business financing. An issuer is considered to be engaged or proposing to engage in small business financing under this section if it is conducting or proposes to conduct an offering of securities which does not exceed the dollar limitation prescribed by section 3(b) of the Securities Act.

(b) When used with reference to an investment company that is an issuer for purposes of the Securities Act of 1933, mean an investment company with net assets of $50 million or less as of the end of its most recent fiscal year.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Part 240 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended by adding § 240.0–10 to read as follows:

§ 240.0–10 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act [5 U.S.C. 601 *et seq.*], and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization" shall—

(a) When used with reference to an "issuer" or a "person," other than an investment company, under sections 12, 13, 14, 15(d) or 16 of the Securities Exchange Act of 1934, mean an "issuer" or "person" that, on the last day of its most recent fiscal year, had total assets of $2,500,000 or less;

(b) When used with reference to an "issuer" or "person" that is an investment company, mean an investment company with net assets of $50 million or less as of the end of its most recent fiscal year;

(c) When used with reference to a broker or a dealer, mean a broker or dealer that:

(1) Is permitted to maintain the amount of net capital specified in § 240.15c3–1 (a)(2) or (a)(3);

(2) Had less than six partners, officers and employees on the last business day of the preceding calendar year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section;

(d) When used with reference to a clearing agency, mean a clearing agency that:

(1) Compared, cleared and settled less than $500 million in securities transactions during the preceding fiscal year (or in the time that it has been in business, if shorter);

(2) Had less than $200 million of funds and securities in its custody or control at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section;

(e) When used with reference to an exchange, mean any exchange that has been exempted from the reporting requirements of § 240.11Aa3–1;

(f) When used with reference to a municipal securities dealer that is a bank (including any separately identifiable department or division of a bank), mean any such municipal securities dealer that:

(1) Had, or is a department of a bank that had, total assets of less than $10 million dollars at all times during the preceding fiscal year (or in the time that it has been in business, if shorter);

(2) Had an average monthly volume of municipal securities transactions in the preceding fiscal year (or in the time it has been registered, if shorter) of less than $100,000; and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section;

(g) When used with reference to a securities information processor, mean a securities information processor that:

(1) Had gross revenues of less than $10 million dollars during the preceding fiscal year (or in the time it has been in business, if shorter);

(2) Serviced less than 100 interrogation devices or moving tickers as those terms are defined in § 240.11Aa3–1 at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section; and

(h) When used with reference to a transfer agent, mean a transfer agent that:

(1) Received less than 500 items for transfer and less than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter);

(2) Maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization under this section.

(i) For purposes of paragraphs (c) through (h) of this section, a person is affiliated with another person if that person controls, is controlled by, or is under common control with such other person; a person shall be deemed to control another person if that person has the right to vote 25% or more of the voting securities of such other person or is entitled to receive 25% or more of the net profits of such other person or is otherwise able to direct or cause the direction of the management or policies of such other person.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Part 250 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended by adding § 250.110 to read as follows:

§ 250.110 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act [5 U.S.C. 601 *et seq.*], and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization," for purposes of the Public Utility Holding Company Act of 1935, shall mean a holding company system whose gross consolidated revenues from sales of electric energy or of natural or manufactured gas distributed at retail for its previous fiscal year did not exceed $1,000,000. There may be excluded from such gross revenues:

(a) Sales of electric energy or natural of manufactured gas to tenants or employees of any operating subsidiary company of such holding company for their own use and not for resale; and

(b) Sales of gas to industrial consumers or in enclosed portable containers.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

Part 260 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended by adding § 260.0–7 to read as follows:

§ 260.0–7 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act [5 U.S.C. 601 *et seq.*], and unless otherwise defined for purposes of a particular rulemaking proceeding, the terms "small business" and "small organization" for purposes of the Trust Indenture Act of 1939 shall mean an issuer whose total assets on the last day of its most recent fiscal year were $2.5 million or less that is engaged or proposing to engage in small business financing. An issuer is considered to be engaged or proposing to be engaged in a small business financing under this section if it is conducting or proposing to conduct an offering of securities which does not exceed the dollar limitation prescribed by § 260.4a–2.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended by adding § 270.0–10 to read as follows:

§ 270.0–10 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act [5 U.S.C. § 601 *et seq.*], and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization" for purposes of the Investment Company Act of 1940 shall mean an investment company with net assets of $50 million or less as of the end of its most recent fiscal year.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Part 275 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended by adding § 275.0–7 to read as follows:

§ 275.0–7 Small entities for purposes of the Regulatory Flexibility Act.

(a) For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act [5 U.S.C. 601 *et seq.*], and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization" for purposes of the Investment Advisers Act of 1940 shall mean an investment adviser that:

(1) Manages assets with a total value of $50 million or less, in discretionary or non-discretionary accounts, as of the end of its most recent fiscal year and does not render other advisory services; or

(2) Solely, or in addition to managing assets of $50 million or less, renders other advisory services and the assets related to its advisory business, as shown in the balance sheet most recently filed by it with the Commission, do not exceed in value 50 percent of the average business-related assets for this type of investment adviser.[1]

(b) As used in this rule, the term "other advisory services" means the services referred to in Form ADV, Part II, item 1 (c) through (h).
[17 CFR 279.0–1].

Authority: The Commission hereby publishes for comment proposed Rules 157, 0–10, 110, 9–7, 0–9 and 0–7, 17 CFR 230.157, 240.0–10, 250–110, 260.9–7, 270.0–10 and 275.0–7 respectively, pursuant to chapter 6 of title 5 of the United States Code [and particularly section 601 thereof [5 U.S.C. 601]] and pursuant to the Securities Act of 1933 [15 U.S.C. 77a *et seq.* and particularly section 19 thereof [15 U.S.C. 77s]], the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.* and particularly section 23 thereof [15 U.S.C. 78w]], the Public Utility Holding Company Act of 1935 [15 U.S.C. 79a *et seq.* and particularly section 20 thereof [15 U.S.C. 79t]], the Trust Indenture Act of 1939 [U.S.C. 77aaa *et seq.* and particularly section 319 thereof [15 U.S.C. 77sss]], the Investment Company Act of 1940 [15 U.S.C. 80a *et seq.* and particularly section 38 thereof [15 U.S.C. 80a–37]], and the Investment Advisers Act of 1940 [15 U.S.C. 80b–1 *et seq.* and particularly section 211 thereof [15 U.S.C. 80b–11]].

By the Commission.

George A. Fitzsimmons,
Secretary.

March 20, 1981.

[FR Doc. 81-9255 Filed 3-27-81; 8:45 am]

BILLING CODE 8010-01-M

[1] Size standard to be expressed in dollars in final rule.

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 19

Federal Interaction With Voluntary Standards Bodies; Procedures

AGENCY: Assistant Secretary of Commerce for Productivity, Technology and Innovation, Department of Commerce.

ACTION: Proposed amendment to final rules.

SUMMARY: The Procedures on Federal Interaction with Voluntary Standards Bodies were published at 46 FR 1574, January 6, 1981 to become effective February 5, 1981. In response to President Reagan's Memorandum of January 29, 1981, the effective date of those procedures was postponed until March 30, 1981 by notice of rulemaking published at 46 FR 11657, February 10, 1981, and is being further postponed by similar notice appearing in this issue in the Rules section (see FR Doc 81–9524). This notice proposes (1) that the procedures be indefinitely supended pending reexamination, or (2) that the procedures be allowed to go into effect on an interim basis during the period of their reexamination.

DATES: Written comments are due on or before April 14, 1981.

ADDRESS: Comments should be mailed to Mr. Robert B. Ellert, Acting Assistant Secretary for Productivity, Technology and Innovation, Room 3864, U.S. Department of Commerce, Washington, D.C. 20230; or delivered to Room 3864, Main Commerce Building, 14th Street between Constitution and Pennsylvania Avenues, N.W., Washington, D.C., between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Robert B. Ellert, Acting Assistant Secretary for Productivity, Technology and Innovation, Room 3859, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5394; or Mr. Donald M. Malone, Deputy Assistant General Counsel for Productivity, Technology and Innovation, Room 3859, Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5394.

SUPPLEMENTARY INFORMATION: The Department of Commerce issued, on December 31, 1980, Part 19 of Title 15, entitled "Federal Interaction With Voluntary Standards Bodies; Procedures". This part appeared in the **Federal Register** for January 6, 1981 (46 FR 1574) with an effective date of February 5, 1981. These procedures were issued in response to Section 7a(1)(a) of OMB Circular A-119, entitled "Federal Participation in the Development and Use of Voluntary Standards". In response to President Reagan's Memorandum of January 29, 1981 entitled, "Postponement of Pending Regulations", the effective date of the procedures was postponed to March 30, 1981 (see 46 FR 11657, February 10, 1981). To allow time in which to complete the instant rulemaking proceeding, the procedures are being further postponed until April 29, 1981, by notice appearing elsewhere in this volume.

During the period of postponement ordered in the President's Memorandum of January 29, 1981, comments were received questioning the appropriateness of the procedures. A decision has therefore been made to reexamine these procedures, insofar as there is lawful discretion to do so. This notice proposes amending these procedures to do the following:

(1) Suspend the procedures indefinitely pending completion of reexamination of them; or

(2) Permit the procedures to go into effect on an interim basis during the period of their reexamination. This proposed amendment is understood to comply with the recommendations of the Office of Legal Counsel, U.S. Department of Justice, for conducting reexamination of a final rule which has not yet gone into effect.

Dated: March 25, 1981.

Robert B. Ellert,

Acting Assistant Secretary for Productivity, Technology and Innovation.

The substance of our proposal is to amend FR Doc 81-254, published at 46 FR 1574, January 6, 1981, and Part 19 of Title 15 of the Code of Federal Regulations contained therein, as necessary to do the following:

(1) Suspend Part 19 indefinitely pending completion of reexamination of that part in the light of comments received during the period of postponement ordered in the President's Memorandum of January 29, 1981; or

(2) Allow Part 19 to go into effect on an interim basis during the period of its reexamination.

[FR Doc. 81-9525 Filed 3-30-81; 8:45 am]

BILLING CODE 3510-13-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-175; RM 3760]

TV Broadcast Stations in Arcata and Eureka, California; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of UHF Television Channel 23 to either Arcata, California or Eureka, California, in response to a petition filed by Pentreed, Inc. The proposed channel could provide for a first commercial television service to Arcata, or a third television service to Eureka.

DATES: Comments must be filed on or before May 15, 1981, and reply comments on or before June 4, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 16, 1981.

Released: March 25, 1981.

In the matter of amendment of § 73.606(b), Table of Assignments, television broadcast stations (Arcata and Eureka, California); proposed rulemaking.

1. The Commission has under consideration a petition for rule making,[1] filed by Pentreed, Ltd. ("petitioner"), which seeks the assignment of UHF Television Channel 23 to Arcata, California, as that community's first commercial television assignment. Petitioner filed supporting comments, restating its intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Arcata (population 8,985),[2] in Humboldt County (population 99,692) is located along the northern California coast, 12 kilometers (7.3 miles) north of Eureka, California. It has no local television service.

3. Petitioner asserts that Arcata is the second largest city in the county. The population is said to have increased from 9,985 in 1970 to 12,479 in 1980, representing a 10-year growth rate of approximately 50%. According to Pentreed, the population is expected to increase with the completion of land annexations now underway. It states that the economy is supported by lumbering, paper and pulp manufacturing, commercial fishing, retail trade, services and local government. Petitioner further claims that Arcata, as a rapidly growing community with a prosperous and diversified economy deserves a first television channel assignment.

4. Given the proximity of Arcata to Eureka, we question which city the proposed channel would actually serve. Considering this aspect of the proposal, which the petitioner should address in its comments, the larger and more important city of Eureka (population 24,337) may be the more appropriate location for the assignment. See, *Oklahoma City, Oklahoma*, 44 FR 67664, published November 27, 1979. Typically the smaller community depends on the nearby larger community for the support necessary to operate a local television station. However, petitioner should note that the 15-mile rule (§ 73.607(b) of the Commission's Rules) could be utilized to permit the filing of an application to serve Arcata, if desired.

5. Accordingly, we propose the following alternative revisions in the Television Table of Assignments (§ 73.606(b) of the Rules) with respect to the communities listed below:

City	Channel No.	
	Present	Proposed
ALTERNATIVE I		
Arcata, Calif		23
ALTERNATIVE II		
Eureka, Calif	3-, 6-, *13-	3-, 6-, *13-, 23

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are

[1] *Public Notice* of the petition was given on October 2, 1980, Report No. 1251.

[2] Population figures are taken from the 1970 U.S. Census.

incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before May 15, 1981, and reply comments on or before June 4, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published Feb. 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An ex parte contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-9530 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[BC Docket No. 81-174; RM-3759]

TV Broadcast Station, Joplin, Montana; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of UHF television Channel 38 to Joplin, Montana, as its third television assignment in response to a petition filed by Garryowen Corporation.

DATES: Comments must be filed on or before May 15, 1981, and reply comments on or before June 4, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 16, 1981.

Released: March 25, 1981.

In the matter of amendment of § 73.606(b), Table of Assignments, television broadcast stations (Joplin, Montana); proposed rule making.

1. The Commission herein considers a petition for rule making [1] filed by Garryowen Corporation ("petitioner"),[2] which seeks the assignment of UHF television Channel 38 to Joplin, Montana. Petitioner expressed an interest in applying for the channel, if assigned. No oppositions to the proposal were received.

2. Joplin (pop. 508),[3] in Liberty County (pop. 2,359), is located approximately 112 kilometers (70 miles) northwest of Great Falls, Montana. It presently has two assignments: Channel 48 (construction permit for translator Station K48AI to be operated by petitioner) and Channel 54 (translator application pending).

3. Petitioner states that the proposed station operating as a 100 watt translator could provide a first full CBS network coverage to approximately 50,000 persons in Blaine, Hill, Toole,

[1] Public Notice of the petition was given on October 2, 1980, Report No. 1251.

[2] Licensee of television Stations KTVQ, Billings, Montana; KRTV, Great Falls, Montana; KXLF-TV, Butte, Montana; KPAX-TV, Missoula, Montana; and translator stations serving Lewiston, Montana (K131X); Miles City, Montana (K10GF); Sheridan, Wyoming (K07HC); Helena, Montana (K08GK); Hardin, Montana (K06KF); Castle Rock and Lame Deer, Montana (K70ER); and Heath, Montana (K55AJ).

[3] Population figures are taken from the 1970 U.S. Census.

Liberty, Glacier, and Pondera Counties (representing 7.2 percent of Montana's population). It further claims that service is at a minimum in these sparsely populated counties. Petitioner submitted sufficient information to demonstrate the need for a third television assignment for translator use at Joplin. The channel could also be used to provide a first local commercial television service should the interest arise.

4. Since Joplin is located within 402 kilometers (250 miles) of the U.S. Canadian border, the proposed assignment of UHF television Channel 38 to Joplin, Montana, requires coordination with the Canadian Government.

5. In view of the foregoing, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Rules) with regard to the city of Joplin, Montana, as follows:

City	Channel No.	
	Present	Proposed
Joplin, Mont	48,54-	38, 48, 54-

6. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before May 15, 1981, and reply comments on or before June 4, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections (4)(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel it is is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comment; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties of this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceedings will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-9531 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-176; RM-3746]

TV Broadcast Station, Orchard, Nebraska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of UHF television Channel 16 to Orchard, Nebraska, as its first television assignment, in response to a petition filed by Virgil Pinkerman.

DATES: Comments must be filed on or before May 15, 1981, and reply comments on or before June 4, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 16, 1981.

Released: March 24, 1981.

In the matter of amendment of § 73.606(b), Table of Assignments, television broadcast station (Orchard, Nebraska); Proposed Rule Making.

1. The Commission herein considers a petition for rule making [1] filed by Virgil Pinkerman ("petitioner"), which seeks the assignment of UHF television Channel 16 to Orchard, Nebraska. Petitioner states that he will apply for the channel, if assigned. No opposition to the proposal were received.

2. Orchard (pop. 467),[2] in Antelope County (pop. 9,047) is located approximately 225 kilometers (140 miles) northwest of Omaha, Nebraska. It has no local television broadcast service.

3. Petitioner states that the economy is based on farming and small industry. He claims that the community, although small, is very progressive. The new development and projects will provide for an increase in population and create opportunities for additional employment. It further claims that the proposed assignment will bring a first television service to both the community and the county. Sufficient information was submitted to demonstrate the need for a first television assignment.

4. In view of the foregoing, the Commission proposes to amend the Television Table of Assignments (§ 73.606(b) of the Rules), with regard to the following community:

City	Channel No.	
	Present	Proposed
Orchard, Nebraska		16

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 15, 1981, and reply comments on or before June 4, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81-9532 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on September 19, 1980, Report No. 1248.

[2] Population figures are taken from the 1970 U.S. Census.

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Parts 639 and 640

[Dockets Nos. 80-A and 80-B]

Proposed Withdrawal of Regulations; Buses

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of proposed withdrawal of regulations.

SUMMARY: The Urban Mass Transportation Administration (UMTA) issued regulations describing the Stockpiling of Buses and the Bus Rehabilitation grant programs on January 13, 1981, and January 19, 1981, respectively. President Reagan directed that the effective dates of these regulations be postponed until March 31, 1981, so that they could be reviewed to determine if they were necessary. UMTA has completed this review and proposes to withdraw these rules and instead to issue non-regulatory policy guidances on each topic. To afford the public an opportunity to comment on this action, the rules are being further postponed for 45 days.

DATE: The postponement of these rules for an additional 45 days is effective on March 31, 1981. Any written comments on the proposed withdrawals and issuance of non-regulatory guidances must be received on or before April 15, 1981.

ADDRESS: Comments must be submitted to UMTA Dockets Nos. 80–A (Bus Rehabilitation) or 80–B (Bus Stockpiling), 400 7th Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination in room 9320 at the above address between 9:30 a.m. and 5:00 p.m., local time, Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with the comment.

FOR FURTHER INFORMATION CONTACT: John Collins, Assistant Chief Counsel for Legislation and Regulation, UCC–10, (202) 426–1906.

SUPPLEMENTARY INFORMATION: UMTA issued regulations describing the requirements for the Stockpiling of Buses and the Bus Rehabilitation grant programs on January 13, 1981, and January 19, 1981, respectively (46 FR 5480; 46 FR 9862). Pursuant to President Reagan's January 29, 1981, memorandum, on postponement of pending regulations, the Department of Transportation postponed the effective dates for these regulations until March 31, 1981 (46 FR 10706; February 4, 1981). The President directed the postponement of these and all other final rules that were not yet effective to give his Administration the opportunity to review and assess the need and burden of each.

UMTA has completed its review of these two regulations and proposes to withdraw them and substitute non-regulatory policy guidances for each. These guidances would be published in the form of an UMTA Circular in the "Notice" section of the **Federal Register** and would be based on the policies contained in the pending regulations.

The purposes of both the Bus Stockpiling and the Bus Rehabilitation regulations have transit industry support and increase grantee flexibility. UMTA has determined, however, that a regulation would not be required to accomplish either purpose. A policy guidance on each subject would let grantees know that UMTA will allow the emergency stockpiling of buses and the rehabilitation of buses without imposing burdensome requirements. Furthermore, policy guidances would allow for greater flexibility in dealing with special circumstances on a case-by-base basis. UMTA believes that this proposal is in keeping with President Reagan's policy of reducing regulatory burdens on the public.

Although UMTA has come to some tentative conclusions on withdrawing these regulations, we seek the advice of the public on these actions. Therefore, UMTA will permit a 15-day comment period on the proposed withdrawal of these regulations. Within an additional 30 days, UMTA will withdraw the pending regulations and issue non-regulatory policy guidances for each unless convincing new information is submitted justifying a different course of action. In order to allow for the submission of comments and development of policy guidances, the Bus Stockpiling and Bus Rehabilitation regulations are being postponed for an additional 45 days.

During this additional postponement period, UMTA will continue to fund projects under both grant programs on a case-by-case basis. Until the non-regulatory policy guidances are issued, applicants for funds should use the policy contained in the pending final rules for each program as guidance in the development of grant applications.

Since the covered regulations are scheduled to become effective shortly, additional notice and public participation on the change of effective dates is impractical, unnecessary, and contrary to the public interest and good cause exists for making these postponements effective immediately.

Neither of these pending regulations nor their postponement are "major actions" within the meaning of Executive Order 12291. Regulatory evaluations for both regulations continue to be available for inspection in the public docket (80–A, Bus Rehabilitation; and 80–B, Bus Stockpiling), Room 9320, 400 7th Street, Washington, D.C. 20590. Copies of each evaluation may be obtained by writing to the above address.

The effective dates of the following regulations are postponed until May 15, 1981 in a final rule document appearing in today's issue.

Title	Citation	Previously scheduled effective date
Stockpiling of buses (UMTA Docket 80–B) 49 CFR pt. 639.	46 FR 5480; Jan. 19, 1981.	Mar. 31, 1981.
Bus rehabilitation program (UMTA Docket 80–A) 49 CFR pt. 640.	46 FR 9862; Jan. 29, 1981.	Mar. 31, 1981.

(49 U.S.C. 1602 and 1604; 23 U.S.C. 103 and 142; 49 CFR 1.51)

Issued in Washington, D.C. on: March 26, 1981.

Carole Foryst,

Acting Administrator, UOA–1 Urban Mass Transportation Administration.

[FR Doc. 81–9607 Filed 3–27–81; 8:45 am]

BILLING CODE 4910–57–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1052

[Ex Parte No. MC–42] [1]

Handling of C.O.D. Shipments [2]

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to revise its existing regulations to authorize individual carriers to establish their own nondiscriminatory c.o.d. collection and remittance rules and to eliminate the requirements in existing recordkeeping. By this action, the Commission intends to promote efficient operation through individually tailored rules and to promote competition which should produce better c.o.d. service.

DATE: Comments of interested persons will be due May 14, 1981.

ADDRESS: An original and 15 copies of comments should be sent to: Room 5356, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275–7656.

[1] The petition filed January 17, 1980, by Mistletoe Express Service for an exemption is consolidated for disposition here.

[2] This corrects the Notice served March 19, 1981, and published in the **Federal Register** on March 20, 1981, at 46 FR 17814.

SUPPLEMENTARY INFORMATION:

Remittance Period

The present regulations for the handling of cash-on-delivery (c.o.d.) funds (49 CFR 1052) were promulgated in 1949. *Handling of C.O.D. Shipments*, 51 M.C.C. 5 (1949). Among other things, these rules require that c.o.d. monies collected by carriers will be remitted directly to the consignor or other payee designated by the consignor within 10 days following delivery and, at the same time, the delivering carrier will notify the originating carrier, if an interline movement, of the remittance (49 CFR 1052.3).

We propose to remove this rule and to substitute a rule authorizing each carrier offering c.o.d. service to publish its own non-discriminatory c.o.d. provisions in its tariff.

The rule requiring remittance of c.o.d. funds within 10 days after delivery has been in effect since 1949. In recent years, fewer carriers have been eager to undertake c.o.d. service and it is not as available as it once was. It may be that the 10 day remittance requirement, among other things, discourages carriers from providing the service. Recently, the Commission was informed by Mistletoe Express Service that it was unable to streamline its operation to meet the 10 day deadline.[3]

Under our proposal, a carrier in this situation will be able to publish a remittance period which is practical for its operation. On the other hand, other carriers could remit c.o.d. funds faster and specify a shorter remittance period. We believe that this freedom to publish individual c.o.d. rules will create an opportunity for additional carriers to offer c.o.d. service to the public. In an era of inflation and high interest rates, a carrier which remits c.o.d. funds promptly offers very desirable service.

We also believe that our proposal is consistent with the trend in motor carrier regulation evidenced by the Motor Carrier Act of 1980, Pub. L. 96–296. That Act amended the national transportation policy, 49 U.S.C. 10101(a), to include:

> With respect to transportation of property by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping public; * * *

Individual c.o.d. handling rules should enable each carrier to operate more efficiently. Each carrier may tailor its c.o.d. rules to coordinate best with its own operations.

We recognize that the length of time carriers retain c.o.d. funds is of extreme importance to shippers and that freedom to extend the remittance time could be used to discourage c.o.d. transportation. In accordance with our findings in *C.O.D. and Freight Collect Shipments*, 356 I.C.C. 37 (1978), and our conviction that c.o.d. service is a necessary part of motor transportation services, we are willing to investigate claims by shippers that reasonable c.o.d. service or alternative service (perhaps order-notify) is not available. We are, nonetheless, confident that increased entry and service competition will ensure adequate levels of c.o.d. service. Whatever provisions determined by a carrier (we hope in consultation with its c.o.d. shippers) to be necessary must be applied on a non-discriminatory basis. The size of a shipper or the amount of c.o.d. funds involved are not proper grounds for establishing different remittance periods or different procedures (e.g., amounts of cash accepted, acceptance of checks payable to the consignor).

The majority of shippers and carriers [4] who commented on the Sub-No. 1 proceeding expressed concern regarding the problems of late transmittals, costs involved in the tracing of C.O.D. remittances, co-mingling of funds and lost remittance in the event of a motor carriers bankruptcy. Each expressed support for the proposed revision in 49 CFR 1052.3(b) which read:

> All checks and money orders must be made payable to the consignee or to the party indicated on the bill of lading on shippers orders as payee.

Under this proposal the consignee would cut two checks (money order, bank check, or certified check) one made payable to the consignor, a second equalling freight charges and the C.O.D. fee made payable to the carrier.[5] This proposal, the commentors believe, would ameliorate or eliminate the major C.O.D. problems. Therefore, we ask again for comments on whether to adopt this rule (renumbered) in the event our proposal to eliminate most of our current C.O.D. regulations is approved.

We also believe that the second part of § 1052.3, requiring notification of remittance to the originating carrier in a joint movement at the time the remittance is made, should be removed. Matters such as these involving day-to-day carrier relations are more appropriately resolved by the carriers themselves. To the extent connecting carriers need this, or other similar information, we are confident that they will develop procedures that meet their needs.

Carriers offering c.o.d. service will be required to publish their c.o.d. handling rules in their tariffs. As discussed above, the rules must apply to all of the carrier's c.o.d. shipments and would be subject to protest upon filing. The rules may include as many optional services as may be desirable or needed by particular shippers (e.g. clear shipper notation requirement, acceptance of cash versus checks, maximum cash accepted), and, if appropriate, contain reasonable charges for the various services. The restrictions imposed on rate bureau activities in Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus-Implementation of Pub. L. 96–296, 364* I.C.C. *464*, served December 30, 1980, will be applicable, as pertinent, to collective establishment of c.o.d. rules.

We are also proposing to repeal 49 CFR 1052.4, which requires that a separate record of all c.o.d. shipments be kept and that it contain certain information. Considering the need for business to maintain complete records in the case of customer inquiry or problem, we question the necessity of a rule to accomplish the same thing. Unless the carriers believe it useful, we see no need for a separate listing for c.o.d. shipments.

It is proposed that § 1052.3 of Part 1052, Subchapter A, Chapter X of Title 49 of the Code of Federal Regulations be revised to read as follows:

§ 1052.3 Collection and remittance.

Every common carrier of property subject to the Interstate Commerce Act, except as otherwise provided in § 1052.1, which provides any c.o.d. service must publish and maintain a tariff or tariffs which set forth non-discriminatory rules governing the collection and remittance of c.o.d. funds.

§ 1052.4 [Removed]

It is also proposed that § 1052.4 be removed.

The proposed rules not appear to affect significantly the quality of the human environment, the conservation of resources or small business. However, comments on this issue are welcome.

This notice of proposed rulemaking is issued under authority contained in 49

[3] As a result of this proposal, we will not consider Mistletoe's request further. In any case, the rules provide for no exceptions and a rule change would have been necessary to grant the request.

[4] Admiral Merchants Freight, Inc.; A-T-O Inc.; Freightways Express Inc. M-T Express, Inc.; Roadway Express, Inc.; Shippers National Freight Claim Council, Inc.; National Industrial Traffic League; Outboard Marine Corporation; Bayview Trucking, Inc.

[5] This rule closely parallels Item 430 of the National Motor Freight Classification Tariff, 100-E, except for the provision requiring a carrier to collect and remit to a designated party other than the original shipper. This may impose a slightly additional, although by no means overly burdensome obligation on the carrier.

U.S.C. 10101, 10321, 10762, 11101, and 5 U.S.C. 553.

Decided: March 9, 1981.

By the Commission, Chairman Gaskins, Vice Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Commissioner Gresham concurring.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-9495 Filed 3-27-81; 8:45 am]

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49 CFR Parts 1245 and 1246

[No. 37025]

Revisions to the Preliminary Report of Number of Employees, of Class I Railroads and the Report of Employees, Service, and Compensation, Filed by Class I Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to revise the monthly and annual report forms pertaining to the compensation, service hours, and number of Class I railroad employees. The monthly Report of Employees, Service, and Compensation (RESC) and the Preliminary Report of Number of Employees of Class I Railroads (PNOE) would be combined, streamlined, and entitled "Monthly Report of Railway Employees, Service, and Compensation." The annual Report of Employees, Service, and Compensation would be similarly streamlined and entitled "Annual Report of Railway Employees, Service, and Compensation." These revisions would update the report forms to better reflect modern reporting divisions. It would also reduce the reporting burden by requiring carriers to report only information pertinent to Commission's needs and by requiring only one monthly report.

DATES: Comments should be filed on or before May 14, 1981.

ADDRESS: Send comments with 10 copies to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

For complete copies of the notice call: 800-424-5403.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Chief, Section of Accounting and Reporting (202) 275-7448.

SUPPLEMENTARY INFORMATION: The Commission presently requires Class I line-haul railroads to file the RESC monthly and annually. The Commission uses data from these reports to publish Statement No. 300, Wage Statistics of Class I Railroads in the United States, annually. These railroads are also required to file the PNOE, monthly, which the Commission uses to publish Statement No. 350, Report of Railroad Employment—Class I line-haul Railroads, on a monthly basis. Requiring these periodic reports are within the scope of 49 U.S.C. 10706.

On 3/1/79, the Commission published a Final Rule in this proceeding (44 FR 11551) which revised the annual RESC and the monthly PNOE, and eliminated the monthly RESC. The revisions were to have been effective 7/1/79. The Railway Labor Executives' Association (RLEA) raised objections concerning several job titles and the elimination of the monthly RESC. This caused the Commission to suspend the proposed effective date of the rule, reopen the proceeding, and schedule an informal conference for 5/15/79. Notice of this action was published on 5/1/79 (44 FR 25457).

The informal conference was held on its scheduled date at the Commission, Washington, D.C., and continued on 7/24/79 and 8/15/79. Industry and labor representatives were requested to meet and reach an agreement on the classification of job titles.

Industry and labor represented by the Association of American Railroads (AAR) and the RLEA, respectively, met on 5/24/79 and 6/12/79. The two parties reached some agreement. However, they did not agree on several job titles. Both the AAR and the RLEA submitted comments to the Commission.

The Commission reviewed those comments and prepared a staff proposal, which was forwarded to the AAR, the RLEA, the Burau of Labor Statistics (BLS), the Railroad Retirement Board (RRB), Office of Labor Management Relations-Department of Labor (LMR), the National Mediation Board (NMB), and the National Railway Labor Conference (NRLC). The Commission received comments from all of these organizatons except the NMB. The American Railway Supervisors Association also filed comments stating disagreement with the RLEA on the classification of several job titles.

We have reviewed all the comments and propose the following:

I. Classification of Job Titles

We revised the classification of job titles to include the changes agreed upon by the AAR and the RLEA. Disputed items were classified following the guideline that job titles should not be reclassified unless the need for change was specifically explained by one of the parties. New titles have been added and obsolete titles have been deleted, as appropriate.

The Commission's classification of railroad employees was never intended to set up jurisdictional lines for the several occupations or defined duties. As stated by the United States Railway Labor Board in its Wage Series No. 2, published in May, 1921:

"The Occupational Classification is in no way and under no circumstances to be interpreted by the Board, by the Interstate Commerce Commission, by the railroads or by other interested parties, as setting up jurisdictional lines for occupations, or as limiting the kinds of work which employees may perform or the duties which they may assume. In preparing the Occupational Classification, the Board has not aimed to standardize for the railroads the occupational duties assigned to, or the kinds or work performed by their employees, and nothing in the classification nor in the report forms is to be construed in this light."

The new classifications are set forth in Appendix B with description, typical titles, and relation to the present classification.

II. The Monthly Report of Employees, Service, and Compensation, and the Preliminary Report of Number of Employees of Class I Railroads

We propose to combine the monthly PNOE and the monthly RESC, substantially reduce the report's data elements, and entitle the new report "Monthly Report of Railway Employees, Service, and Compensation." This will result in a reduction in the number of reporting requirements. The proposed report is shown in Appendix D.

In our suspended Final Rule published on 3/1/79, the monthly PNOE required that the middle-of-the-month count be broken down between male and female at the request of the BLS. During the informal conference, it was disclosed that the RRB collects this data. With the understanding that BLS can obtain this information from the RRB, we eliminated this requirement. Accordingly, this data is not reflected in the newly designed monthly RESC.

The suspended Final Rule would have also changed the RESC's filing requirement from monthly and annually to annually only. However RRB objected to this because Section 2(h)(3) of the Railroad Unemployment Insurance Act requires them to use the Commission's employment data, some of which is needed monthly. We also need this data monthly. Therefore, the revised report form is required to be filed monthly, and

although it has been streamlined, it should satisfy data needs.

III. Annual Report of Employees Service and Compensation

We propose to streamline this report and change the title to "Annual Report of Railway Employees, Service, and Compensation." This report, as set forth in Appendix C, is very similar to the above mentioned monthly report.

Therefore, we propose to adopt the classification of job titles and the revised annual and monthly RESC reports as shown in Appendices B, C & D.

Accordingly, effective January 1, 1982, we propose to revise 49 CFR 1245 and 49 CFR 1246 as set forth in Appendix A.

This action does not significantly affect the quality of the human environment or the conservation of energy resources, nor has any significant effect on small business.

This action is proposed under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: March 19, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix A

PART 1245—CLASSIFICATION OF RAILROAD EMPLOYEES; REPORTS OF SERVICE AND COMPENSATION

Revise title and text of 49 CFR 1245.2—Report of service and compensation of railroad employees by class—to read:

§ 1245.2 Reports of railway employees, service and compensation.

Beginning with January 1, 1982, and monthly thereafter until further ordered, each Class I line-haul railroad is required to file a Monthly Report of Railway Employees, Service, and Compensation, (Form RSCM). In addition, such carriers shall also file an Annual Report of Railway Employees, Service, and Compensation, (Form RSCA) for each calendar year. Both reports shall be filed with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within thirty days for the monthly report, and forty five days for the annual report, of the close of the reporting period.

Revise title and text of 49 CFR 1245.4(a) and (b) to read:

§ 1245.4 Forms required to be used.

(a) The report of information to the Interstate Commerce Commission on railroad employees, their service and compensation includes two forms. Form A relates to employees other than train and engine service employees. Form B relates to train and engine service employees.

(b) With general reference to the statement of the compensation of employees in Forms A and B, it should be understood that the total compensation received by the employees in each Reporting Division, as well as the amount of work they perform, should be shown properly distributed under the prescribed column heads as indicated by the forms. It should be noted that if the work of an employee varies during a report period, his time and compensation should be apportioned accordingly. Amounts reported should be gross compensation paid.

* * * * *

§ 1245.5 [Removed].

Remove 49 CFR 1245.5 *Explanatory instructions pertaining to form A-Column 1.*

§ 1245.6 [Removed].

Remove 49 CFR 1245.6 *Explanatory instructions pertaining to form B-Column 1.*

§ 1245.7 [Removed].

Remove 49 CFR 1245.7 *Appendix—Forms A and B.*

PART 1246—[REMOVED]

Remove 49 CFR 1245—Number of Railroad Employees.

Appendix B

No.	Classification	Description	Typical titles	Relation to present classification
100	*Executives, Officials, and Staff Assistants:*			
101	Executives and General Officers	Chief executives, corporate department heads and major subdepartment heads.	President, Vice President, Assistant Vice President, Controller, General Counsel, Trasurer, Director (head of subdepartment), General Superintendent (subdepartment head), Chief Engineer, General Manager (department or Subdepartment head), Chief Medical Officer.	More precisely defined than present No. 1, limited to executive management positions; adds new titles.
102	Corporate Staff Managers	Corporate executives and managers assisting department and subdepartment heads.	Director (other than subdepartment head), Assistant Director, Assistant General Manager (not regional), Manager, Assistant Manager, Assistant Chief Engineer, Purchasing Agent, assistant General Counsel, Superintendent (not division), Assistant to (corporate executive or general officer), Executive Assistant (to corporate executive) Budget Officer.	New classification, providing a specific assignment for staff managers; adds new title.
103	Regional and Division Officers, Assistants and Staff Assistants.	Regional managers and assistants below the executive management level, and chief division officers.	Assistant General Manager, Assistant Regional Manager, General Superintendent, Assistant to General Manager, Division Superintendent, Master Mechanic, Division Sales Manager, District Sales Manager, Assistant Master Mechanic, District Engineer, Assistant Superintendent, Captain of Police, Division Engineer.	Similar to present No. 2 but limited to regional and divisional management; adds new title.
104	Transportation Officers/Managers	Managers directly supervising train and yard operations.	Train Master, Assistant Training Master, General Yardmaster, General Road Foreman, Road Foreman, assistant Road Foreman, Chief Power Supervisor (motive).	New classification providing specific assignment for Operations Managers.
200	*Professional and Administrative:*			
201	Professionals (other than those reported in 101 and 102).	Technical occupations requiring a high degree of training and/or supervising subprofessionals and technicians.	General Attorney, Assistant General attorney, Attorney, Commerce Counsel, Medical Officer, Surgeon, Company Surgeon, Engineer, Architect, Chief Chemist, Nurse,	Corresponds to present ICC No. 3, but limited to professionals; adds new titles.

No.	Classification	Description	Typical titles	Relation to present classification
			Tax Accountant Internal auditor to General Accountant, Corporate Accountant, Supervisor Programing, Senior Computer System Specialist Senior System Analyst, Chief Draftsman.	
202	Subprofessionals	Technical occupations requiring a high degree of knowledge and/or skill.	Draftsman, Chemist, Assistant Chemist, X-ray Technician, Supervisior Estimating, Junior Engineer, Engineering Trainee, Photographer, Computer Programmer, Computer Analyst, Market Analyst, Pricing Analyst, Employment Supervisor, RE-search Analyst.	Corresponds to present ICC No. 3 but limited to subprofessionals; adds new titles.
203	Auditors, Traveling Auditors or Accountants	Title is descriptive	Traveling Auditor, Accounting Specialist Auditors, Operations Traveling Auditors, Station Auditors.	Corresponds to present ICC No. 13.
204	General and administrative Supervisors	Supervisors responsible for administrative activity of a department, subdepartment, office or region.	General Supervisor, Supervisor, Chief Clerk, Office Supervisors, Supervisor Administration, Office Manager, Supervising Clerk, Head Clerk, Assistant Chief Clerk, Supervising Cashier, Division Supervisor, Regional Supervisor, Budget Supervisor, Administrative Supervisor, Manager of Materials, Administrative Assistant.	Consolidation of present ICC Mos. 4 and 5; adds new titles.
205	SAles and Traffic Representatives and Agents.	Non-supervisory occupations with predominant responsibilities for sales and customer relations.	Freight Traffic Agent, Coal Traffic Agent, Sales Representative, Freight Sales Representative, Freight Traffic Representative, Passenger Sales Representative.	New classification, containing a portion of present ICC No. 19; adds new titles.
206	Freight and Other Claim Agents and Investigators.	Occupations which have predominant duties investigating and handling freight and personal injury claims.	Claim Agent, Claim Investigator, Freight Claim agent, Freight Claim Investigator.	Consolidates present ICC Nos. 20 and 21; adds new titles.
207	Supervising and Chief Claim	Title is descriptive	Chief Claim agent, Chief Freight Claim Agent, Assistant Chief Claim Agent, Chief District Claim Agent, District Freight Claim Agent, Chief Claim Investigator.	Corresponds with present ICC No. 22.
208	Lieutenants and Sergeants of Police	Title is descriptive	Police Lieutenant, Police SErgeant	Corresponds to present ICC No. 17.
209	Police Officers, Watchmen and Guards (Except Crossing and Bridge).	Title is descriptive	Police Officer, Patrolman, Watchman, Guard	Corresponds with present ICC No. 18.
210	Inspectors (Except Maintenance of Way and Equipment), Other Investigators, Examiners, Instructors, and Other agents (Except Station Agents).	Miscellaneous occupations which have predominant duties of investigating, inspecting, reviewing, and instructing and which require a high degree of technical knowledge.	Rules Examiner, Supervisor Rules, Safety Supervisor, Safety Inspector, Fire Marshall, Fire Chief, Instructor, Supervisor Procedures, Supervisor Yard Procedures, Real Estate Agent, Real Estate Supervisor, Tax Agent.	Classification for a portion of similar occupations included in present ICC No. 19; adds new titles.
211	Buyers, and Sales Agents	Occupations whose duties are predominantly the purchase, sale, of company materials, supplies, and equipment.	Buyer, assistant Buyer, Sales Agent, Assistant Sales Agent.	Corresponds to present ICC No. 11 with materials and stones occupations omitted.
212	Clerical Technicians and Clerical Specialists	Clerical occupations with duties to perform independently responsible work requiring special financial cost, accounting, or other technical knowledge.	Lead Clerk, Staff Assistant (clerical), Statistician, Cashier, Teller, Assistant Statistician, Rate Clerk, Pricing Clerk, Computer Technician.	Corresponds to present ICC No. 6, adds new title.
213	Office Machine and Data Equipment Operators.	Occupations with predominant duties of operating office machines and computer equipment.	Machine Operator, Clerk, Computer Operator, Keypunch Operator, Office Machine Technician.	Corresponds to present ICC No. 8; adds new titles.
214	Secretaries, sTenographers, and Typists	Secretaries, Stenographers, and Typists	Secretary, Stengrapher, Typists, Clerk Typist, Steno-clerk.	Corresponds to present ICC Nos. and 10.
215	General and Other Clerks (excluding yard clerk and crew dispatcher).	Clerical occupations not otherwise classified	File Clerk, General Clerk, Bookkeeper, Ticket Clerk, Records Clerk, Trace Clerk, Assignment Clerk, Personnel Clerk, M of W Clerks, M of E Clerks.	Corresponds to present ICC No. 7; adds new titles.
216	Telephone and Switchboard Operators	Title is descriptive	Switchboard Operator, Chief Operator	Present ICC No. 14.
217	Building and Office attendants	Miscellaneous occupations associated with office building functions.	Elevator Operator, Elevator Starter, Janitor, Cleaner, Porter.	Consolidates present ICC Nos. 16 and 26.
218	Messengers and Office Persons	Title is descriptive	Messenger, Office Person	Present ICC No. 15.
219	Motor Vehicle Operators	Occupations associated with automobile and truck driving.	Truck driver, Bus Driver, Driver, Chauffeur	Consolidates present ICC Nos. 24 and 25.
300	*Maintenance of Way and Structure:*			
301	Supervisors, Maintenance of Way, Structures, Communication and Signals.	Occupations with supervisor responsibility for maintenance of way and structures (other than regional and divisional officers).	Roadmaster, Division Roadmaster, Supervisor Track, Supervisor Bridges and Buildings, Supervisor Communications and Signals, Assistant Supervisor, General Foreman (MW&s), Assistant General Foreman (MW&S), Master Carpenter.	Corresponds with present ICC Nos. 27 and 44.
302	Maintenance of Way, Structures, Communication and Signals, and Scale Inspectors.	Title is descriptive	Chief Bridge and Building Inspector, Chie Scale Inspector, Bridge and Building Inspector, Scale Inspector, Roadway Equipment Inspector, Track and Roadway Inspector, Instrument Man, Rodman, Chainman, Inspector Communications and Signals, Signal Inspector.	Corresponds with present ICC No. 28 plus part of old No. 44
303	Bridge and Building Gang Foreman	Title is descriptive	Gang Foreman, Lead Workman	Consolidates present ICC No. 29 with bridge and building portion of present ICC No. 39.
303	Bridge and Building Carpenters	Title is descriptive	Carpenter	Corresponds with present ICC No. 30.
305	Bridge and Building Ironworkers	Title is descriptive	Ironworker	Corresponds with present ICC No. 30.
306	Bridge and Building Painters	Title is descriptive	Painter, Sign Painter	Corresponds with present ICC No. 32.
307	Masons, Bricklayers, Plasterers, and Plumbers.	Title is descriptive	Mason, Bricklayer, Plasterer, Plumber, Operator, Grinder, Welder (M of W).	Corresponds with present ICC Nos. 23 and 33.

No.	Classification	Description	Typical titles	Relation to present classification
308	Bridge and Building Helpers and Apprentices.	Title is descriptive.	Carpenter Helper, Ironworker Helper, Mason Helper, Plumber Helper, Painter Helper, Apprentice Carpenter, Apprentice Ironworker, Apprentice Mason, Plumber Apprentice, Apprentice Painter, Welder Helper.	Corresponds with present ICC No. 34; adds new titles.
309	Bridge and Building Gang and Bridge and Building Department Laborers.	Title is descriptive.	Bridge and Building Laborer.	Corresponds with present ICC No. 43.
310	Track Gang Foremen (Extra Gang work train laborers).	Title is descriptive.	Gang Foreman, Assistant Foreman.	Corresponds with present ICC No. 38.
311	Gang or Section Foreman.	Title is descriptive.	Gang Foreman, Assistant Foreman, Section Foreman.	Corresponds with present ICC No. 40.
312	Extra Gang Laborer.	Title is descriptive.	Tackman, Fence Laborer.	Corresponds with present ICC No. 41.
313	Section Laborer.	Title is descriptive.	Trackman, Track and Roadway Section Laborer.	Corresponds with present ICC No. 42.
314	Machine Operators.	Title is descriptive.	Craneman, Portable Equipment Engineer, Portable Equipment Operator, Machine Operator, Helper.	Consolidates present ICC Nos. 35, 36 and 37.
315	Gang Foremen, Communications and Signals.	Title is descriptive.	Gang foreman, Assistant Gang Foreman, Lead Signal Maintainer.	Consolidates present ICC No. 45 with communications and signals occupations included in present ICC No. 39.
316	Signalmen and Signal Maintainers.	Title is descriptive.	Signalman, Signal Maintainer.	Corresponds with present ICC No. 46.
317	Linemen and Groundmen and Communications Craftsman.	Communications equipment installers, maintainers, and repairmen.	Electrical Worker (Lineman), Electrical Worker (Groundman), Communications maintainer.	Title is descriptive47.
318	Assistant Signalmen and Assistant Signal Maintainers.	Title is descriptive.	Assistant Signalman, Assistant Signal Maintainer.	Corresponds with present ICC No. 48.
319	Signal Helpers and Signal Maintainer Helpers.	Title is descriptive.	Signalman Helper, Signal Maintainer Helper.	Corresponds with present ICC No. 49.
320	Camp Car Cooks.	Occupations engaged in food service in camp cars.	Camp Car Cook, Camp Car Helper.	Corresponds with present ICC No. 97.
400	*Maintenance of Equipment and Stores:*			
401	Supervisors and General Foremen, Maintenance of Equipment.	Occupations with supervisory responsibility for maintenance of equipment (other than regional and division officers).	General Foreman Shop, General Foreman Enginehouse, General Foreman Diesel Terminal, Assistant General Foreman (M of E).	Corresponds with present ICC No. 50; adds new titles.
402	Supervisors and General Foremen, Materials and Stores.	Occupations with supervisory responsibility responsibility for stores and materials.	Supervisor Materials, Assistant Supervisor Materials, General Foreman Stores, General Foreman Reclamation Plant, Assistant General Foreman.	Corresponds with present ICC No. 51; adds new titles.
403	Equipment, Shop, Electrical Inspectors.	Title is descriptive.	Chief Electrical Inspector, Chief Shop and Equipment Inspector, Electrical Inspector, Electrical Inspector, Equipment Inspector, Inspector Diesel Locomotive, Fuel Inspector.	Corresponds with part of present ICC No. 52.
404	Materials and Supplies Inspectors.	Title is descriptive.	Materials and Supplies Inspector, Chief Materials and Supplies Inspector, Timber Inspector, Tie Inspector.	Corresponds with part of present ICC No. 52.
405	Storekeeper.	Title is descriptive.	Storekeeper, Assistant Storekeeper, Materials Clerk, Store Clerk.	Corresponds to materials and stores occupation in present ICC No. 11.
406	Gang Foremen, Maintenance of Equipment.	Title is descriptive.	Gang Foreman.	Consolidates present ICC Nos. 53 and 68.
407	Blacksmiths.	Title is descriptive.	Blacksmith.	Corresponds with present ICC No. 54.
408	Boilermakers.	Title is descriptive.	Boilermaker.	Corresponds with present ICC No. 55.
409	Carmen (Freight).	Repair and inspect freight cars.	Car Repairmen, Car Inspector, Carman, Painter.	Corresponds with present ICC No. 57.
410	Carmen (Other).	Title is descriptive.	Carmen.	Corresponds with present ICC No. 56.
411	Electrical Workers (A).	Electricians.	Electrician, Electrical Worker.	Corresponds with present ICC No. 58.
412	Electrical Workers (B).	Electrical workers—occupations specialized in operating heavy equipment.	Crane Operator, Load Dispatcher, Power Station Operator, Assistant Power Director.	Corresponds with present ICC No. 59.
413	Electrical Workers (C).	Electrical workers—occupations specialized in heavy equipment operating at coal, grain, and ore docks.	Coal and Ore Elevator Operator (electrical), Grain Elevator Operator (electrical).	Corresponds with present ICC No. 60.
414	Machinists.	Title is descriptive.	Mahinist.	Corresponds with present ICC No. 61.
415	Sheet Metal Workers.	Title is descriptive.	Sheet Metal Worker.	Corresponds with present ICC No. 63.
416	Skilled Trades, Helpers, Maintenance of Equipment.	Title is descriptive.	Helper.	Corresponds with present ICC No. 64.
417	Apprentices, Maintenance of Equipment and Stores.	Title is descriptive.	Apprentice, Helper Apprentice.	Consolidates present ICC Nos. 65 and 66.
418	Coach Cleaners.	Title is descriptive.	Coach Cleaner.	Corresponds with present ICC No. 67.
420	Laborers: Shops, Enginehouses, and Power Plants.	Title is descriptive.	Laborer.	Consolidates present ICC Nos. 70 and 71.
420	Gang Foremen, Materials and Stores.	Title is descriptive.	Gang Foreman.	Corresponds with present ICC No. 69.
421	Equipment Operators and General Laborers, Materials and Stores.	Title is descriptive.	Laborer, Materials Handler, Equipment Operators, Machine Operators.	Corresponds with present ICC No. 72, plus part of ICC No. 24.
422	Stationary Engineers.	Title is descriptive.	Chief Engineer (Steam Plant), Engineer, Stationary Engineer.	Corresponds with present ICC No. 73.
423	Stationary Firemen.	Title is descriptive.	Stationary Fireman, Power Equipment Operator Helper, Oiler.	Corresponds with present ICC No. 74.
500	*Transportation, Other Than Train and Engine:*			
501	Transportation Supervisor and Chief Train Dispatcher.	Occupation directly supervising train operation.	Chief Train Dispatcher, Supervisor Train Operations, Transportation Supervisor, Supervisor Train Operations, Supervisor Locomotive and Car Distribution, Assistant Chief Train Dispatcher.	Corresponds with present ICC No. 75; adds new titles.
502	Train Dispatchers.	Title is descriptive.	Train Dispatcher.	Corresponds with present ICC No. 76.

No.	Classification	Description	Typical titles	Relation to present classification
503	Station, Freight and Passenger Agents	Occupations with responsibility for station operations.	Supervising Station Agent, Assistant Supervising Station Agent, Station Agent, Freight Agent; Passenger Agent, Ticket Agent, Traveling Agent, Agent Operators.	Consolidates present ICC Nos. 12, 78, 79, and 80.
504	Chief Operators and Wire Chiefs	Title is descriptive	Supervising Operator, Chief Operator, Assistant Supervising Operator, Wire Chief.	Corresponds with present ICC No. 81.
505	Clerk Operators, Towerman, Train Directors	Title is descriptive	Clerk Operator, Block Operator, Operator, Towerman, Train Directors.	Consolidates present ICC Nos. 77, 82 and 83.
506	Station Masters and Assistants, Supervising Baggage Agents, Baggage Agents and Assistants.	Title is descriptive	Stationmaster, Assistant Stationmaster, Supervising Baggage Agent, Baggage Agent, Assistant Baggage Agent, Parcel Room Agent.	Consolidates present ICC Nos. 84, 85 and 86.
507	Baggage, Parcel Room and Station Attendants.	Title is descriptive	Baggage Attendant, Parcel Room Attendant, Station Attendant, Gateman, Announcer, Station Usher, Red Cap, Information Bureau Attendant.	Corresponds with present ICC No. 87.
508	General and Assistant General Foremen, Stations, Warehouses, Grain Elevators, and Docks.	Title is descriptive	General Foreman, Assistant General Foreman.	Consolidates present ICC Nos. 88 and 89.
509	Gang Foremen, Stations, Warehouses, Grain Elevators and Docks.	Title is descriptive	Gang Foreman	Corresponds with present ICC No. 90.
510	Grain Elevator, and Dock Laborers	Title is descriptive	Laborer	Consolidates present ICC Nos. 93 and 94.
511	Station, and Warehouse Laborers	Title is descriptive	Loader, Sealer	Corresponds with present ICC No. 91.
512	Truckers (Station, Warehouse and Platforms)	Title is descriptive	Trucker	Corresponds with present ICC No. 92.
513	Food and Lodging Manager, Supervisors	Occupations with responsibility for supervision of food service or lodging.	Manager Lodging House, Restaurant Manager, Dining Car Supervisor, Dining Car Steward.	Corresponds with present ICC No. 95.
514	Transportation and Dining-Service Inspectors	Title is descriptive	Instructor Chef, Restaurant Inspector, Freight Service Inspector, Baggage Inspector.	Corresponds with present ICC No. 99.
515	Waiters and Kitchen Helpers (Restaurant and Dining Car).	Title is descriptive	Waiter-in-charge, Waiter	Corresponds with present ICC No. 97.
516	Chefs and Cooks (Restaurant and Dining Car).	Title is descriptive	Chef, Cook	Corresponds with present ICC No. 96.
517	Marine Officers and Workers and Shore Workers.	All occupations with predominant duties which are the operation of marine service.	Captain, Engineer, Mate, Deckhand, Oiler Purser, Boat Mater, Fireman, Wharf Master, Able Seaman, Baggageman, Boat Dispatcher.	Corresponds with present ICC No. 98.
518	Train Attendants	Passenger train occupations other than train service and dining car operation.	Porter, Buffet Lounge Attendant, Stewardess	Consolidates present ICC Nos. 100 and 101.
519	Bridge Operators and Helpers	Title is descriptive	Bridge Operator	Corresponds with present ICC No. 102.
520	Bridge and Crossing Flagmen and Gatemen	Title is descriptive	Bridge Flagman, Crossing Gateman	Corresponds with present ICC No. 103.
521	Yard Clerks	Clerical occupations situated in yards and yard offices.	Yard Clerk, Yard Clerk Caller, Yard Demurrage Clerk, Yard Dispatcher Clerk, Piggyback Clerk.	New classification.
522	Crew Dispatchers	Title is descriptive	Crew Dispatcher, Crew Caller	New classification.
523	Yardmasters and Assistant Yardmasters	Title is descriptive	Yardmaster, Assistant Yardmaster	Consolidates present ICC No. 105 and 106.
600	*Transportation, Train and Engine:*			
601	Switchtenders	Title is descriptive	Switchtender	Corresponds to present ICC No. 107.
602	Car Retarder Operators and Ground Service Employees.	Fround occupations not part of yard crew	Car Retarder Operator, Skatesman, Herder, Yard Pilot.	New classification—part of present ICC No. 119; adds new titles.
603	Outside Hostlers	Title is descriptive	Outside Hostler	Corresponds to present ICC No. 108.
604	Outside Hostler Helpers	Title is descriptive	Outside Hostler Helper	Corresponds to present ICC No. 110.
605	Inside Hostler	Title is descriptive	Inside Hostler	Corresponds to present ICC No. 109.
606	Road Passenger Conductors	Title is descriptive	Passenger Conductor	Corresponds to present ICC No. 111.
607	Assistant Road Passenger Conductors and Ticket Collectors	Title is descriptive	Assistant Passenger Conductor, Ticket Collector.	Corresponds to present ICC No. 112.
608	Road Freight Conductors (Through Freight)	Title is descriptive	Freight Conductor, Work Train Conductor, (paid through rate).	Corresponds to present ICC No. 113.
609	Road Freight Conductors (Local and Way Freight).	Title is descriptive	Freight Conductor, Work Train Conductor, (paid local rate).	Corresponds to present ICC No. 114.
610	Road Passenger Baggageperson	Title is descriptive	Baggageperson	Corresponds to present ICC No. 115.
611	Road Passenger Brakemen and Flagmen	Title is descriptive	Passenger Brakeman, Passenger Flagman	Corresponds to present ICC No. 116.
612	Road Freight Brakemen and Flagmen (Through Freight).	Title is descriptive	Freight Brakeman, Freight Flagman, Work Train Brakeman, (paid through rate).	Corresponds to present ICC No. 117.
613	Road Freight Brakemen and Flagmen (Local and Way Freight).	Title is descriptive	Freight Brakeman, Freight Flagman, Work Train Brakeman, (paid local rate).	Corresponds to present ICC No. 118.
614	Yard Conductors and Yard Foremen	Title is descriptive	Yard Conductor, Yard Foreman	Corresponds to present ICC No. 119. Less Car Retarder Operator and other ground occupations not part of Yard Crew.
615	Yard Brakemen and Yard Helpers	Title is descriptive	Yard Brakeman, Yard Helper	Corresponds to present ICC No. 120; adds new titles.
616	Road Passenger Engineers and Motormen	Title is descriptive	Passenger Engineer, Motorman, Operator	Corresponds to present ICC No. 121.
617	Road Freight Engineers (Through Freight)	Title is descriptive	Freight Engineer, Work Train Engineer, (paid through rate).	Corresponds to present ICC No. 122.
618	Road Freight Engineers (Local and Way Freight).	Title is descriptive	Freight Engineer, Work Train Engineer, (paid local rate).	Corresponds to present ICC No. 123.
619	Yard Engineers	Title is descriptive	Yard Engineer	Corresponds to present ICC No. 124.
620	Road Passenger Firemen and Helpers	Title is descriptive	Passenger Fireman	Corresponds to present ICC No. 125.
621	Road Freight Firemen and Helpers (Through Freight).	Title is descriptive	Freight Fireman	Corresponds to present ICC No. 126.
622	Road Freight Firemen and Helpers (Local and Way Freight).	Title is descriptive	Freight Fireman	Corresponds to present ICC No. 127.
623	Yard Firemen and Helpers	Title is descriptive	Yard Fireman	Corresponds to present ICC No. 128.

Appendix C—Interstate Commerce Commission; Bureau of Accounts; Annual Report of Railway Employees, Service and Compensation

1. Under an order of this Commission dated October 19, 1950 Class I railroads are required to file with the Commission an annual report of railway employees, service and compensation, and for that purpose this report form is provided.

2. The annual report shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 45 days following the close of the period for which it is compiled.

Form A

3. List particulars of the number of employees in various Reporting Groups in the service of the respondent, except train and engine, of the service rendered, and of the compensation paid for such service. Employees are to be counted and classified and their service reported as required by the Rules governing the Classification of Railroad Employees and Reports of their Service and Compensation, contained in the order mentioned previously.

4. Column 2. Add the total number of employees in service as of the 15th day of the month for each month of the calendar year being reported on. Divide the total by 12, and enter in this column.

Employees whose duties are such as to make them includible in two or more Reporting Divisions should be reported in that division indicated by the occupation in which they are engaged on the day of the middle of month count. The count should not be restricted to employees actually on duty as of the day of the count, but should include all other regular assigned employees, employees under pay on vacation or sick leave and relief employees. Employees who are not subject to call for duty, such as employees absent on definite leave or under suspension; employees on furlough; and pensioners not bound to render service, should be excluded.

5. Column 3. Enter number of employees who worked and were paid during the year, no matter for how short a period, classified by reporting divisions. Employees who worked in more than one occupation during the year should be assigned according to the preponderance of their duties.

6. Column 6. Enter the totals of time paid for and not worked, such as payment for part holidays, holidays, absence on definite leave, vacations, miscellaneous time paid for but not worked, such as pay for attending court, suspensions, sickness, time allowed for meals, and other time that can properly be considered constructive, such as allowance to complete a minimum day when less than a minimum day is worked.

Where vacation allowances are based on compensation earned in the previous year, the hours should be computed as in note to Column 7, Form B.

Form B

7. On Form B should be listed information with respect to employees in the train and engine service group.

8. Column 2, and Column 3, see instructions Nos. 4 and 5.

9. Column 7. Enter the number of constructive hours allowed which does not represent actual train service and for which mileage is not allowed, such as vacation time, pay for "Held away from home terminal" rule, called not used runaround, deadheading, attending court, suspensions, investigations, and claim and safety meetings.

Note.—The total dollar amount of vacation allowance in a particular month, for each reporting division, should be divided by the average straight time hourly rate of such reporting division, to determine the constructive vacation hours paid for. The straight time hourly rate for each such reporting division should be determined by dividing the "Compensation—Straight Time Paid For" by "Service Hours—Straight Time Paid For" for the latest available month.

Certification

I, The undersigned (Title of officer in charge of accounts) .....of the (Full name of reporting company).....Company, state that this report was prepared by me or under my supervision; that I have carefully examined it; and on the basis of my knowledge, belief, and verification (where necessary) I declare it to be a full, true and correct statement of the operating statistics named and that the various items here reported were determined in accordance with effective rules promulgated by the Interstate Commerce Commission.

Signature _____
Telephone No. (Include Area Code) _____
Address _____
Date _____

BILLING CODE 7035-01-M

ANNUAL REPORT OF RAILWAY EMPLOYEES SERVICE, AND COMPENSATION

Full name of reporting company .....

Month _____ 19-----

FORM A

GP NO.	REPORTING GROUP (1)	Column Headings
100	Total Executive, Officials and Staff Assistants	(2) Average number of employees during year (3) Number of employees who received pay during year
200	Total Professional and Administrative	SERVICE HOURS
300	Total Maintenance of Way and Structures	(4) Time actually worked and paid for at straight time rates
400	Total Maintenance of Equipment and Stores	(5) Overtime paid for at punitive rates
500	Total Transportation (Other than train and engine)	(6) Time paid for but not worked (7) Total time paid for
		COMPENSATION
		(8) Time actually worked and paid for at straight time rates (9) Overtime paid for at punitive rates (10) Time paid for but not worked (11) Total

FORM B

500	Total Transportation (Train and engine)	(2) Average number of employees during year (3) Number of employees who received pay during year
		SERVICE HOURS
		(4) Straight time actually worked (5) Straight time paid for (6) Overtime paid for (7) Constructive allowances (8) Total
		COMPENSATION
		(9) Straight time paid for (10) Overtime paid for (11) Constructive allowances (12) Total
		MILES
		(13) Actually run (14) Paid for but not run (15) Total number of trips for which not less than a minimum day was paid

BILLING CODE 7035-01-C

Appendix D.—Interstate Commerce Commission Bureau of Accounts

Monthly Report of Railway Employees, Service and Compensation

1. Under an order of this Commission dated October 19, 1950 Class I railroads are required to file with the Commission a monthly report of railway employees, service and compensation, and for that purpose this report form is provided.

2. The monthly report shall be filed in duplicate with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the end of the month to which it relates.

Form A

3. List particulars of the number of employees in various Reporting Groups in the service of the respondent, in all reporting groups except train and engine, of the service rendered, and of the compensation paid for such service. Employees are to be counted and classified and their service reported as required by the Rules governing the Classification of Railroad Employees and Reports of their Service and Compensation, contained in the order mentioned previously.

4. Column 2. Enter the total number of employees in service as of the 15th day of the month, except when it falls on a Saturday, Sunday or a holiday, in which case the count should be made as of the last preceding business day.

Employees whose duties are such as to make them includible in two or more Reporting Groups should be reported in that group indicated by the occupation in which they are engaged on the day of the middle of month count.

The count should not be restricted to employees actually on duty as of the day of the count, but should include all other regular assigned employees, employees under pay on vacation or sick leave and relief employees. Employees who are not subject to call for duty, such as employees absent on definite leave or under suspension; employees on furlough; and pensioners not bound to render service, should be excluded.

5. Column 3. Enter number of employees who worked and were paid during the year, no matter for how short a period, classified by reporting groups. Employees who worked in more than one occupation during the month should be assigned according to the preponderance of their duties.

6. Column 6. Enter the totals of time paid for and not worked, such as payment for part holidays, holidays, absence on definite leave, vacations, miscellaneous time paid for but not worked, such as pay for attending court, suspensions, sickness, time allowed for meals, and other time that can properly be considered constructive, such as allowance to complete a minimum day when less than a minimum day is worked.

Where vacation allowances are based on compensation earned in the previous year, the hours should be computed as in note to Column 7, Form B.

Form B

7. On Form B should be returned information with respect to employees in the train and engine service group.

8. Column 2, and Column 3, see Instruction Nos. 4 and 5.

9. Column 7. Enter the number of constructive hours allowed which does not represent actual train service and for which mileage is not allowed, such as vacation time, pay for "Held away from home terminal" rule, called not used runaround, deadheading, attending court, suspensions, investigations, and claim and safety meetings.

Note.—The total dollar amount of vacation allowance in a particular month, for each reporting division, should be divided by the average straight time hourly rate of such reporting division, to determine the constructive vacation hours paid for. The straight time hourly rate for each such reporting division should be determined by dividing the "Compensation—Straight Time Paid For" by "Service Hours—Straight Time Paid For" for the latest available month.

Certification

I, the Undersigned (Title of Officer in charge of accounts) of the (Full name of reporting company) Company, state that this report was prepared by me or under my supervision; that I have carefully examined it; and on the basis of my knowledge, belief, and verification (where necessary) I declare it to be a full, true and correct statement of the operating statistics named and that the various items here reported were determined in accordance with effective rules promulgated by the Interstate Commerce Commission.

Signature _____

Telephone No. (Include Area Code) _____

Address _____

Date _____

BILLING CODE 7035-01-M

ANNUAL REPORT OF RAILWAY EMPLOYEES SERVICE, AND COMPENSATION

Full name of reporting company .....
Month _____ 19-----

FORM A

GP NO.	REPORTING GROUP (1)	Column Headings
100	Total Executive, Officials and Staff Assistants	(2) Average number of employees during year (3) Number of employees who received pay during year
200	Total Professional and Administrative	SERVICE HOURS
300	Total Maintenance of Way and Structures	(4) Time actually worked and paid for at straight time rates
400	Total Maintenance of Equipment and Stores	(5) Overtime paid for at punitive rates
500	Total Transportation (Other than train and engine)	(6) Time paid for but not worked (7) Total time paid for
		COMPENSATION
		(8) Time actually worked and paid for at straight time rates (9) Overtime paid for at punitive rates (10) Time paid for but not worked (11) Total

FORM B

600	Total Transportation (Train and engine)	(2) Average number of employees during year (3) Number of employees who received pay during year
		SERVICE HOURS
		(4) Straight time actually worked (5) Straight time paid for (6) Overtime paid for (7) Constructive allowances (8) Total
		COMPENSATION
		(9) Straight time paid for (10) Overtime paid for (11) Constructive allowances (12) Total
		MILES
		(13) Actually run (14) Paid for but not run (15) Total number of trips for which not less than a minimum day was paid

[FR Doc. 81-9499 Filed 3-27-81; 8:45 am]
BILLING CODE-7035-01-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Amendment to Ex Parte Communications List.

SUMMARY: This notice corrects the ex parte communications list published on February 4, 1981 (46 FR 10787).

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, Office of Marine Mammals and Endangered Species, NMFS, NOAA, DOC, Washington, D.C. 20235. Telephone: 202/634-1792. Office location: Room 414B, Page Building 2, 3300 Whitehaven Street, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: On February 4, 1981 (46 FR 10787), the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, announced the receipt of an incidental take permit application from The Federation of Japan Salmon Fisheries Cooperative Associations under the Marine Mammal Protection Act of 1972, as amended. The application requested a permit to incidentally take 5500 Dall's porpoise per year for three years in the applicant's salmon fishery which is conducted pursuant to the International Convention for the High Seas Fisheries of the North Pacific Ocean (INPFC). In the same notice, the Agency announced a formal hearing to consider the population status of Dall's porpoise and published a list of personnel who may reasonably be expected to participate in the decision process regarding the permit application. This publication was designed to assist persons outside the Agency in complying with Section 4 of the Government in the Sunshine Act (Pub. L. No. 94-409) and its prohibition on *ex parte* communications during Agency rulemaking. Today the Agency announces the removal of the following personnel from the February 4, 1981 *ex parte* list because they will not be involved in recommending a final decision to the Administrator of NOAA, who is charged with the ultimate decision regarding the issuance of the requested permit:

F/CM—William G. Gordon, Director, Office of Resource Conservation and Management, NMFS

F/IA—Carmen Blondin, Director, Office of Intrernational Affairs, NMFS

The final recommendations to the Administrator will be made by the NMFS Office of Marine Mammals and Endangered Species which must evaluate the scientific evidence presented in the formal hearing regarding the population status of Dall's porpoise.

Dated: March 25, 1981.

Robert Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-9539 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 46, No. 60
Monday, March 30, 1981.

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

Farmers Home Administration

Business and Industrial Loan Progam

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of policy regarding documentation of inquiries.

SUMMARY: The Farmers Home Administration's Business and Industrial (B&I) Loan Program is committed to making its resources available without undue influence to rural businesses and industries for the purpose of improving, developing, or financing such businesses, creating employment opportunities and improving the rural economic and environmental climate. The B&I program is structured to finance quality loans which will provide lasting community benefits.

The Farmers Home Administration, B&I program has received recommendations which it supports from the Department of Agriculture's Office of Inspector General, the General Accounting Office and the public that in order to assure that the loan review process, particularly at the Washington Headquarters, is completely objective, all personal contacts should be documented in writing. Therefore, the Farmers Home Administration's B&I personnel will institute an internal management policy of documenting in writing all outside personal contacts including telephone inquiries and conferences from both the private and public sectors which involve a specific B&I application or project.

Such documentation will become a part of the official loan docket and be retained as a permanent record. The person requesting information will be advised at the beginning of the conversation of the FmHA policy. The documentation will include date, contact person, his/her affiliation and relationship to the case, nature of inquiry and FmHA's response.

The FmHA programs and projects which are affected by this instruction are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H.

(FCDA No. 10.422, Business and Industrial Loans.)

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Dated: March 21, 1981.

Dwight O. Calhoun,
Acting Administrator, Farmers Home Administration.

[FR Doc. 81-9638 Filed 3-27-81; 8:45 am]
BILLING CODE 3410-07-M

Forest Service

Final Programmatic Environmental Impact Statement; 1981–1985 Cooperative Spruce Budworm Management Program for Maine

Based on the evaluation in the environmental impact statement and on public comments it is my decision to adopt Alternative 3 as the program direction. Alternative 3 provides for an Integrated Pest Management (IPM) program involving an increase in silviculture and utilization-marketing, while the use of chemical insecticides is reduced and the use of biological insecticides is increased. This alternative was selected because it best provides for flexibility to meet changes in resource management objectives and techniques while minimizing spruce budworm-caused balsam fir and spruce mortality; responds to public concern about use of chemical insecticides while reducing the impacts on nontarget organisms and water quality; and encourages long-term development of a forest less susceptible to spruce budworm damage while lessening the potential for long term disruption of Maine's forest economy. The selected alternative is also enviromentally preferable to the other alternatives when physical, biological, economic, and social factors are weighed on balance. The other alternatives considered include: (1) IPM involving an increase in silviculture and utilization-marketing, while the use of chemcials and biological insecticides remains constant; (2) IPM involving an increase in silviculture and utilization-marketing, while the use of chemical insecticides is reduced and the use of biological insecticides remains constant; (4) IPM involving an increase in silviculture and utilization-marketing while the use of chemical insecticides is eliminated and the use of biological insecticides is greatly increased; and (5) No provision for any spruce budworm management except salvage and other harvesting.

The decision to adopt Alternative 3 is in agreement with the Forest Service mission as defined in the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95–313). Section 5 of this legislation makes provision for the protection of trees and forests from insects through cooperative efforts with State Foresters or equivalent State Officials.

I have concluded that Federal financial assistance should sustain and advance the IPM initiatives already being pursued by the State and many private landowners. Federal financial participation will involve Forest Service participation in timber supply and demand analyses, and assistance to owners of small woodlands, utilization and marketing assistance, and the application of biological and chemical insecticides.

The selected alternative will provide for the use of all spruce budworm management methods. During the 5-year program, chemical insecticides will be applied to approximately 950,000 acres and the biological insecticide *B.t.* will be applied to approximately 150,000 acres each year to allow orderly increases in silviculture and utilization-marketing methods. Salvage and harvesting of dead and dying timber will be increased and will be concentrated on areas unprotected by pesticides.

The alternative selected provides adequate mitigation and monitoring measures to minimize possible adverse environmental impacts. These measures are described in the Final Programmatic Environmental Impact Statement.

This slected alternative will be implemented by the USDA Forest Service through technical assistance and through annual funding requests from the State of Maine which will be evaluated on the ability to accomplish the program's objectives. Under the selected alternative in the Final Programmatic Environmental Impact Statement, the Maine Bureau of Forestry will administer assistance to small woodland owners, timber supply and demand analyses, utilization-marketing assistance and the application of biological and chemical insecticides. Silvicultural and utilization-marketing activities by the landowners and industry will vary with tree species, market requirements, and management goals.

The alternative selected is in compliance with Standard Federal laws. Federal financial participation in annual projects will be based on biological, economic, and environmental analyses made in compliance with National Environmental Policy Act (NEPA) regulations.

Dated: March 30, 1981.

Allen J. Schacht,

Area Director, Northeastern Area, State & Private Forestry.

[FR Doc. 81-9485 Filed 3-27-81; 8:45 am]

BILLING CODE 3410-11-M

Science and Education Administration

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776) the Science and Education Administration announces the following meeting:

NAME: National Agricultural Research and Extension Users Advisory Board.

DATE: April 6-8, 1981.

TIME:
8:00 a.m.—5:00 p.m., April 6-7.
8:00 a.m.—Noon, April 8.

PLACE: Texas A&M, College Station, Texas.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: Time will be made for non-member statements on April 6, or the public may file written comments before or after the meeting with the contact person below.

PURPOSE: The Board will be reviewing and discussing agricultural research and extension programs.

CONTACT PERSON FOR AGENDA AND MORE INFORMATION: Dr. John G. Stovall, Executive Director of the Users Advisory Board; Science and Education Administration; U.S. Department of Agriculture; Washington, D.C. 20250; telephone 202-447-8662.

Done at Washington D.C., this 16 day of March 1981.

John G. Stovall,

Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 81-9632 Filed 3-27-81; 8:45 am]

BILLING CODE 3410-03-M

Joint Council on Food and Agricultural Sciences; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: Joint Council on Food and Agricultural Sciences.

Date: April 15-17, 1981.

Time and Place: Captain's Room, Channel Inn, 650 Water St., S.W., Wash., D.C., April 15, 1:00 p.m.-5:00 p.m.; April 16, 8:30 a.m.-4:30 p.m.; April 17, 8:30 a.m.-noon.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: Discuss Council's 1981 agenda; hear updates from ad hoc committees on energy and program structure; hear report from the Joint Council Subcommittee on the Participation of Women in the Food and Agricultural Sciences.

Contact Person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 351-A, Administration Building, Washington, D.C. 20250, telephone (202) 447-6651.

Done at Washington, D.C. this 18th day of March, 1981.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 81-9630 Filed 3-27-81; 8:45 am]

BILLING CODE 3410-03-M

Joint Council on Food and Agricultural Sciences; Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

NAME: Executive Committee of the Joint Council on Food and Argicultural Sciences.

DATE: April 15, 1981.

TIME AND PLACE: 8:30 a.m.-11:30 a.m., Suite 250, Channel Inn, 650 Water St., S.W., Washington, D.C.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: The public may file written comments before or after the meeting with the contact person below.

PURPOSE: Detailed consideration of Joint Council 1981 agenda items; review of Joint Council committee structure; hear reports of Joint Council Committees on Energy and on the Participation of Women in the Food and Agricultural Sciences.

CONTACT PERSON: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351-A, Administration Building, Washington, D.C. 20250, telephone (202) 447-6651.

Done at Washington, D.C. this 18th day of March, 1981.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 81-9631 Filed 3-27-81; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; (See, 14 CFR 302.1701 et seq.); Week ended March 20, 1981.

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures, such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Mar. 16, 1981	39432	Lone Star Airways, Inc., P.O. Box 2075, Dallas, Texas 75221. Application of Lone Star Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests authority to engage in scheduled air transportation of passengers, property between and mail to the following additional foreign markets: Houston, Texas; Lisbon, Portgual, and Zurich, Switzerland. Conforming Applications, motions to modify scope, and Answers may be filed by April 13, 1981.
Mar. 17, 1981	39434	Lone Star Airways, Inc., P.O. Box 2075, Dallas, Texas 75221. Application of Lone Star Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests authority to engage in scheduled air transportation of passengers, property and mail to the following additional overseas markets: Los Angeles, California and Honolulu, Hawaii. Conforming Applications, motions to modify scope, and Answers may be filed by April 14, 1981.
Mar. 18, 1981	39440	Delta Air Lines, Inc., Hartsfield Atlanta Int'l Airport, Atlanta, Georgia 30320. Application of Delta Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests a new or amended certificate of public convenience and necessity to permit Delta to provide air transportation services between Atlanta, Georgia and Montreal and Toronto, Canada. Conforming Applications, motions to modify scope, and Answers may be filed by April 15, 1981.
Mar. 19, 1981	39444	Transamerica Airlines, Inc., P.O. Box 2504, Airport Station, Oakland, California 94614. Conforming Application of Transamerica Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment of its Certificate of Public Convenience and Necessity for Route 194 authorizing it to engage in foreign air transportation of passengers, property and mail by adding Thailand, Malaysia, and Singapore to its transpacific combination passenger/cargo segment. As amended that segment will read as follows: "Between a point or points in the United States (excluding, if necessary, Sarasota/Bradenton, Orange County, and/or West Palm Beach), on the one hand, and a coterminal point or points in Taiwan, Korea, Hong Kong, Thailand, Malaysia, and Singapore, on the other hand." Answers may be filed by April 2, 1981.
Mar. 20, 1981	39451	Northwest Airlines, Inc., Minneapolis/St. Paul Int'l Airport, St. Paul, Minnesota 55111. Application of Northwest Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests a certificate of public convenience and necessity to operate scheduled foreign air transportation of persons, property and mail: Between a point or points in the United States, on the one hand, and the co-terminal points Paris, Nice and Marseilles, France, and on the other hand. Northwest further requests that the Board add a condition permitting it to integrate its French operations with other transatlantic service presently authorized in its certificates to the extent permitted by applicable treaties and agreements. Conforming Applications, motions to modify scope, and Answers may be filed by April 17, 1981.
Mar. 20, 1981	39452	American Airlines, Inc., P.O. Box 61616, DFW Airport, Texas 75261. Application of American Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests that the following segment be added to its certificate for Route 137: "Between a point or points in the United States (except Sarasota/Bradenton, Fla., Orange County, Cal., and West Palm Beach, Fla.) and Paris, Marseilles, and Nice, France." Conforming Applications, motions to modify scope, and Answers may be filed by April 17, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-9507 Filed 3-27-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-3-141]

Application of Challenge Air Transport, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 81-3-141.

SUMMARY: The Board proposes to issue a certificate of public convenience and necessity under section 401 of the Act to Challenge Air Transport, Inc. (CAT), a carrier currently operating domestic all-cargo flights under section 418 of the Act. The Board proposes to issue this certificate by show-cause procedures, without oral evidentiary hearing as to either the public convenience and necessity issues or as to the fitness issues. The proposed certificate would give CAT authority to engage in foreign charter air transportation of cargo throughout the Western Hemisphere north of and including Colombia, Venezuela, Guyana, Surinam, and French Guiana.

Objections

All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall NO LATER THAN April 20, 1981, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 38642, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicant, the Departments of State and Transportation and the Attorney General.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificate.

To get a copy of the complete order

Request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, (202) 673-5035, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, March 24, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-9511 Filed 3-27-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39246]

Empresa Guatemalteca de Aviacion (Aviatca) Enforcement Proceeding; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on May 6, 1981, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., March 24, 1981.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 81-9515 Filed 3-27-81; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33363, 32606, 32607]

Former Large Irregular Air Service Investigation; Applications of Worldwide Airlines, Inc.; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on May 12, 1981, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Ave. N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., March 23, 1981.

John M. Vittone,

Administrative Law Judge.

FR Doc. 81-9514 Filed 3-27-81; 8:45 am]

BILLING CODE 6320-01-M

[81-3-133]

Hawaiian Airlines, Inc.; Aloha Airlines, Inc.; Proposed Increased Final Intra-Hawaii Service Mail Rates

AGENCY: Civil Aeronautics Board.

ACTION: Summary Notice of Order to Show Cause, 81-3-133, Proposing Increased Final Intra-Hawaii Service Mail Rates.

SUMMARY: The Board is issuing an order in which it tentatively finds and concludes that the fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General to Hawaiian Airlines, Inc. on and after March 7, 1980, and to Aloha Airlines, Inc. on and after April 3, 1980, for the transportation of mail by aircraft over their intra-Hawaii routes, the facilities used and useful therefor, and the services connected therewith, are $1.9169 per ton-mile for priority mail and $0.7771 per ton-mile for non-priority mail. These rates will be adjusted semi-annually beginning July 1, 1981, based on an updating methodology similar to that now in use for other service mail rates.

DATES: All interested persons having objection to the Board issuing an order making final the tentative findings and conclusions shall file by April 9, 1981, with the Board and serve upon the Postmaster General, Aloha Airlines, Inc. and Hawaiian Airlines, Inc. a notice of objection. If notice of objection is filed, a written answer and any supporting documents must be filed by April 29, 1981.

ADDRESS: Objections should be filed in Dockets 37818 and 37976, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: James E. Gardner, (202) 673-5391, or Julien R. Schrenk, (202) 673-5298, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In the event no objections are filed, the Secretary of the Board will enter an order making final our tentative findings and conclusions.

The complete text of Order 81-3-133 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C., 20428. Persons outside the Washington Metropolitan area may send a postcard request to the Distribution Section.

By the Civil Aeronautics Board, March 24, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-9512 Filed 3-27-81; 8:45 am]

BILLING CODE 6320-01-M

[81-3-142]

New York Air Additional Points Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (81-3-142).

SUMMARY: The Board is instituting the *New York Air Additional Points Proceeding* and is proposing to grant unrestricted authority to New York Air at Atlanta, Atlantic City, Baltimore, Charlotte, Chicago, Columbia, Greensboro/High Point, Greenville/Spartanburg, Hartford/Springfield, Islip, Jacksonville, Louisville, Memphis, Milwaukee, Nashville, Norfolk, Philadelphia, Providence, Raleigh/Durham, Richmond, St. Louis, White Plains and Winston-Salem under expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing the proposed authority shall file, and serve on all persons listed below, no later than May 1, 1981, a statement of objections, together with a summary of the testimony, statistical data and other material expected to be relied upon to support the stated objections.

ADDRESS: Objections to the issuance of a final order should be filed in Docket 39140, which we have entitled the *New York Air Additional Points Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon all parties in the service list to Order 81-3-142.

FOR FURTHER INFORMATION CONTACT: Donna Stright, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5215.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-3-142 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81-3-142 to that address.

By the Bureau of Domestic Aviation, March 24, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-9513 Filed 3-27-81; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Idaho 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 conference of the Idaho Advisory Committee to the Commission will convene at 1:00p and will end at 3:00p, on April 17, 1981, at the Federal Building, Room 523 and 589, 550 West Fort Street, Boise, Idaho 83724. The purpose of this meeting is to discuss civil rights issues in immigration and housing for migrant farmworkers.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Bernadine E. Ricker, P.O. Box 327, Fort Hall, Idaho 83203, (208) 237-2531; of the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (8) 399-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 25, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-9456 Filed 3-27-81; 8:45 am]

BILLING CODE 6335-01-M

Iowa 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 meeting of the Iowa Advisory Committee to the Commission will convene at 9:00a and will end at 2:00p, on April 23, 1981, at the Holiday Inn, Blackhawk Room 1050 Sixth Avenue, Des Moines, Iowa 50314. The purpose of this meeting is to continue program planning and to recieve update data for follow-up to school suspension project.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Lee B. Furgerson, 1225 Stephenson Way, Des Moines, Iowa 50307, (515) 245-4848; or the Central States Regional Office, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106, (8) 785-5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 25, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-9457 Filed 3-27-81; 8:45 am]

BILLING CODE 6335-01-M

North Carolina 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 meeting of the North Carolina Advisory Committee to the Commission will convene at 4:00p and will end at 9:00p, on May 13, 1981, at the Hilton Hotel, Hillsborough Street at Cox Avenue, Raleigh, North Carolina. The purpose of this meeting is to plan programs for 1981; report on meeting with Greensboro's Mayor and Personnel Manager and Human Relations Commission Director.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Rev. William W. Finlator, 1802 Arlington Street, Raleigh, North Carolina 27608, (919) 828-0897; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303, (8) 242-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 25, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-9458 Filed 3-27-81; 8:45 am]

BILLING CODE 6335-01-M

Oregon 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 meeting of the Oregon Advisory Committee to the Commission will convene at 10:00a and will end at 12 Noon, on April 24, 1981, at the Imperial Hotel, Queen Victoria Room, 400 Southwest Broadway, Portland, Oregon 97205. The purpose of this meeting is to plan future programs.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Thomas J. Sloan, 215 NW Orchard Drive, Portland, Oregon 97229, (503) 644-0101; or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (8) 399-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 25, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-9459 Filed 3-27-81; 8:45 am]

BILLING CODE 6335-01-M

South Dakota 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 meeting of the South Dakota Advisory Committee to the Commission will convene at 9:30a and will end at 4:00p, on April 15, 1981, at the Airport Holiday Inn, 1301 West Russel Street, Sioux Falls, South Dakota. The purpose of this meeting is to plan for future activities.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Mary E. McEldowney, 327 Kansas City Street, Rapid City, South Dakota 57701 (605) 342-7171; or the Rocky Mountain Regional Office, Brooks Towers, 1020 Fifteenth Street, Suite 2235, (8) 327-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 25, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-9460 Filed 3-27-81; 8:45 am]

BILLING CODE 6335-01-M

Tennessee 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 meeting of the Tennessee Advisory Committee to the Commission will convene at 10:00a and will end at 5:00p, on May 1, 1981, at the Hilton Inn—Airport, Room 101, 1 International Plaza, Nashville, Tennessee 37217. The purpose of this meeting is to review draft and discuss Knoxville Affirmative Action Study; and program planning for FY 81 and 82.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Rev. Samuel B. Kyles, 704 South Parkway East, Memphis, Tennessee 38106, (901) 946-2529; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303, (8) 242-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 25, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-9461 Filed 3-27-81; 8:45 am]

BILLING CODE 6335-01-M

Tennessee Advisory Committee; Cancelled

Noticed is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Tennessee Advisory Committee, originally scheduled for April 3, 1981, at the Sheraton-Nashville Hotel, Room 206, 920 Broadway, Nashville, Tennessee (FR Doc. 81-7532, on page 16108) has been cancelled.

Dated at Washington, D.C., March 25, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-9462 Filed 3-27-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Spun Acrylic Yarn From Japan; Preliminary Results of Administrative Review of Antidumping Duty Order

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

ACTION: Notice of preliminary results of administrative review of antidumping duty order.

SUMMARY: This notice is to advise the public that the Department of Commerce ahs conducted an administrative review of the antidumping duty order on spun acrylic yarn from Japan. The review covers four manufacturers and nine exporters of this merchandise to the United States and the period from July 13, 1979 through March 31, 1980. The review has disclosed one exportation of spun acrylic yarn from Japan. The Department found no margin in its examination of this transaction. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Larry T. Hampel, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202-377-3058).

SUPPLEMENTARY INFORMATION:

Procedural Background

On April 9, 1980, the Department of Commerce ("the Department") published in the **Federal Register** an antidumping duty order with respect to spun acrylic yarn from Japan (45 FR 24127).

The Department published in the **Federal Register** of March 16, 1981 (46 FR 16921) a notice of intent to conduct administrative reviews of all outstanding antidumping findings or orders. As required under section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has conducted an administrative review of the antidumping duty order on spun acrylic yarn from Japan.

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act. The substantive provisions of the 1921 Act continue to apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of spun acrylic plied yarn primarily for machine-knitting, and are currently classifiable under tiems 310.5015 and 310.5049 of the Tariff Schedules of the United States Anotated (TSUSA). The Department knows of four manufacturers and nine exporters of Japanese spun acrylic yarn to the United States. The review covers the period from July 13, 1979, the date on which liquidation was suspended, through March 31, 1980. This is the initial review of this order and there are no previous appraisement instructions ("master lists").

Three manufacturers and eight exporters stated that they did not export spun acrylic yarn to the United States during the period. The estimated deposit rates for these companies are their fair value rates.

One manufacturer and one exporter provided information on one transaction between the two which constituted the only exportation of Japanese spun acrylic yarn to the United States during the period of review.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772(b) of the Tariff Act, since the one sale was made to an unrelated purchaser. Purchase price was calculated on the basis of the ex-godown packed price to an unrelated Japanese trading company for exportation to the United States. No adjustments to the price were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773(a) of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. During the period reviewed, the manufacturer that exported to the United States sold 2.5% of its merchandise for exportation to countries other than the United States and 97.3% for consumption in Japan. Home market price was based on delivered price with adjustments for commission to the trading company, inland freight, handling, insurance, and differences in credit costs and packing. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that for the period from July 13, 1979 through March 31, 1980, the following margins exist:

Japanese Exporter and Margin (percent)

Mitsui & Co., Ltd.
(MFR: Kanegafuchi Chem. Ind. Co., Ltd.)—0.
Diafibers Co., Ltd.
(MFR: Japan Exlan Corp.)—* 18.33
(MFR: Mitsubishi Rayon Co., Ltd.)—* 20.26.
C. Itoh & Co., Ltd.
(MFR: Asahi Chem Ind. Co., Ltd.)—* 29.05.
(MFR: Mitsubishi Rayon Co., Ltd.)—* 20.26.
Gunze Sangyo, Inc.
(MFR: Asahi Chem. Ind. Co., Ltd.)—* 29.05.
Teijin Shoji Kaisha, Ltd.
(MFR: Asahi Chem. Ind. Co., Ltd.)—* 29.05.
Itoman & Co., Ltd.
(MFR: Japan Exlan Corp.)—* 18.33.
Nissho Iwai Corp.
(MFR: Japan Exlan Corp.)—* 18.33.
Mitsubishi Corp.
(MFR: Mitsubishi Rayon Co., Ltd.)—* 20.26.
Nichimen Co., Ltd.—* 23.19.

* No shipments during review period.

Interested parties may submit written comments on these preliminary results on or before April 29, 1981, and may request disclosure and/or a hearing on or before April 14, 1981. Request for administrative protective order must be made on or before April 6, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries made with purchase dates during the period involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the margins calculated above shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

March 25, 1981.

[FR Doc. 81-9484 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-25-M

Leather Wearing Apparel From Uruguay; Final Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Final Affirmative Countervailing Duty Determination.

SUMMARY: The U.S. Department of Commerce ("the Department") has determined that the Government of Uruguay makes available to the manufacturers, producers, and exporters of leather wearing apparel incentive programs that constitute subsidies within the meaning of the countervailing duty law.

The Department has referred this case to the International Trade Commission for a final determination regarding material injury.

EFFECTIVE DATE: March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Miguel Pardo de Zela, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230, (202) 377-5050.

SUPPLEMENTARY INFORMATION:

Procedural Background

On October 15, 1980, the Department received a petition in proper form from Ralph Edwards Sportswear, Inc., Cape Girardeau, Missouri, on behalf of U.S. producers of leather wearing apparel. The petitioner alleged that the Government of Uruguay provides to

manufacturers, producers, and exporters of such apparel certain benefits that are subsidies within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) ("the Act").

On November 12, 1980, we published a notice (45 FR 74743) of "Initiation of a Countervailing Duty Investigation" for this merchandise. Since Uruguay is a "country under the Agreement," as defined in section 701(b) of the Act, we referred this case to the International Trade Commission (ITC) for a preliminary injury determination. The notice stated that if the ITC determined that there was a reasonable indication that U.S. imports of such apparel were materially injuring or threatening to materially injure an industry in the United States, the investigation would proceed to its conclusion.

On December 11, 1980, the ITC preliminarily determined that there is a reasonable indication that these imports are threatening to materially injure an industry in the United States (45 FR 81689).

On December 17, 1980, we published a notice of "Preliminary Affirmative Countervailing Duty Determination" (45 FR 82979). The notice stated that the Government of Uruguay gave the leather wearing apparel industry a subsidy of 17.387 percent of the f.o.b. value of exported merchandise through a combination of tax certificates, a "tanner's subsidy" and income tax exemptions. We found additional benefits of 8.63 percent ad valorem resulting from benefits accruing to the industry from the alleged back payment of a "tanner's subsidy" and the rebate of an export tax. Thus the preliminary determination found that the total benefit of subsidies amounted to 26.017 percent ad valorem. This amount was later reduced to 18.923 percent upon confirmation that no back payments of the "tanner's subsidy" had been made.

On February 27, 1981, we entered into a Suspension Agreement with the government of Uruguay and "Notice of Suspension of Countervailing Duty Investigation" was published in the **Federal Register**. On March 11, 1981, we received a request by the Government of Uruguay under section 704(g) of the Act to continue the investigation.

Imports Investigated

The merchandise covered by this investigation is leather wearing apparel currently provided for in item 791.76 of the Tariff Schedules of the United States.

Programs Found to Be Subsidies

Reintegro Program

Under this program the Government of Uruguay grants tax certificates to exporters at a fixed percentage of the f.o.b. value of the exported item. These certificates are transferable and may be applied against obligations for both direct and indirect taxes.

The Uruguayan Government claims that its reintegro, or rebate, program is designed to rebate the indirect and direct taxes paid by manufacturers of leather wearing apparel.

The non-excessive rebate of indirect taxes is, subject to certain conditions, *not* considered a subsidy under U.S. countervailing duty law. The primary considerations in determining whether programs like the reintegro program can be considered bona fide indirect tax rebates are (1) whether the program operates for the purpose of rebating indirect taxes; (2) whether there is a clear link between eligibility for payments on export and indirect taxes paid; and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the amount paid on export.

The reintegro is, by its terms, designed to compensate exporters for both direct and indirect taxes paid (the rebate of direct taxes *is* a subsidy). Thus, it does not meet our first test for determining whether the program can be considered an indirect tax rebate. While undoubtedly compensating in some measure for indirect taxes not otherwise, rebated, the reintegro program goes well beyond this purpose. Further, Uruguay did not demonstrate any link between eligibility for payments on export and indirect taxes paid and did not demonstrate any effort to calculate the incidence of indirect taxes borne by manufacturers of leather wearing apparel products.

We have therefore concluded that, in this case, the reintegro payments must be considered a subsidy program. The Government of Uruguay applies three reintegro rates to leather wearing apparel.

In accordance with decree 206/980 of April 16, 1980, these rates are based on the origin of the leather content of the exported apparel. Garments made from domestic leather receive a 17 percent reintegro; from semi-finished imported leather, a 13.6 percent reintegro; and from finished imported leather, a 9 percent reintegro.

The Government of Uruguay requested that three export fees and payments be used to offset the amount of the subsidy we have found under the reintegro program. They are: (1) a payment to the government equal to one percent of the f.o.b. value of all exports to compensate it for administrative and processing services, (2) a payment of 0.3 percent of the f.o.b. value of all exports which is collected by the government to pay for quality control services, and (3) a direct deduction by the government of one percent of the reintegro payment.

Under section 771(6) of the Act an offset may be granted only where (1) application payments and fees are aid to qualify for or receive a subsidy, (2) there is a loss in the value of a subsidy resulting from a government-mandated delay in receipt of payment or, (3) export taxes or duties on export merchandise are specifically intended to offset the subsidy received.

Of the fees and payments cited, we determined that only one—the one percent deduction from reintegro payment—is eligible as an offset to our gross subsidy calculation. We have determined that this deduction is specifically intended to reduce the amount of subsidy received and accordingly, have reduced that amount of the reintegro subsidy by 1 percent of the reintegro payments.

The Government of Uruguay also requested that a value-added tax on agricultural inputs be used as an offset to the subsidy element of the reintegro (and other subsidies we have found). We disallowed this as an offset because there is no demonstration of a link between this indirect tax and the rebate program.

Tax Exemption Program

This program exempts from taxation a fraction of the value-added portion of the company's export income, after expenses and before taxes. Since 1979 the exemption rate has declined from 100 percent to a current rate of 30 percent of export income. As an exemption from income tax for export earnings, this is clearly a subsidy under our law.

Reviewing the tax exemption program for companies that accounted for more than 85 percent of all exports to the United States, we concluded that the program conferred a benefit of 0.016 percent ad valorem.

Non-Payment of Social Security Taxes

Uruguay has a social security tax for most workers. The tax is due from employers at specified intervals. Since mid-1979 the Government of Uruguay has not collected this tax specifically from manufacturers of leather wearing

apparel (it is collected from other producers in other manufacturing sectors). The Government is currently taking action to recover the unpaid amounts.

Because the industry has received a special benefit, we consider the industry's *de facto* exemption of social security taxes is a subsidy. The benefit is 0.41 percent ad valorem. If and when their taxes are collected, our estimated subsidy will be revised.

Programs Not in Effect

Preferential Financing

Exports of leather wearing apparel are eligible for preferential financing, but the Central Bank of Uruguay has the discretion to implement or rescind this program. At present it is suspended. (Directive (Circular) No. 970 of 28 March 1979 and Directive (Circular) No. 996 of 13 November 1979).

"Tanner's Subsidy"

The tanners subsidy existed through April 16, 1980 at which time it was rescinded. The reintegro program subsequent to April 16, 1980 incorporates the concept, and any benefit, of the tanners subsidy.

Export Tax Rebate

In 1980, leather wearing apparel producers were subject to an export tax. On April 16, 1980, the Government of Uruguay ordered the suspension of this tax and a rebate of the amount of the tax paid from January 1, 1980 to April 16, 1980. We consider the rebate of this tax to be a subsidy of 0.76 percent ad valorem, the benefit of which we allocate over a 12 month period. We estimate the receipt and usuage of these rebated taxes to have begun May 31, 1980.

Under the conditions of the Suspension Agreement signed by the Government of Uruguay, Uruguay has until June 1, 1981 to eliminate programs found to be subsidies. The benefit of the export tax rebate, using our 12 month allocation projection, ends May 31, 1981. Consequently, no exports of leather wearing apparel subject to the Suspension Agreement will benefit from the tax rebate.

Verification

We verified the information used in reaching this determination by examining Government decrees, corporate records, and tax returns.

Final Determination

As a result of our investigation, and in accordance with section 705 of the Act, we have determined that the Government of Uruguay provides manufacturers, producers, and exporters of leather wearing apparel subsidies within the meaning of section 701 of the Act. The aggregate net amount of these subsidies equals the following subsidy rates:

	Leather origin		
	Domestic origin	Semi finished imported	Finished imported
Reintegro program	17.00	13.60	9.00
Tax exemption program	.02	.02	.02
Noncollection of social security tax	.41	.41	.41
Gross subsidy	17.43	14.03	9.43
Less: Offset equal to 1 pct of the Reintegro payments	.17	.14	.09
Total: Net subsidy	17.26	13.89	9.34

In the event the February 27 Suspension Agreement is violated, or no longer meets the requirements of subsections (b) or (d) of section 704 of the Act, then the Department will suspend liquidation and issue a final countervailing duty order as required under section 704(i)(1)(C) of the Act.

Critical Circumstance Determination

As we noted in our preliminary determination, imports or Uruguayan leather wearing apparel have fallen since 1979 in both relative and absolute terms. Therefore, we have not found "massive imports of leather wearing apparel from Uruguay over a relatively short period". Accordingly, I determine that critical circumstances do not exist in this case.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations (19 CFR 355.35), we offered the petitioner, Ralph Edwards Sportswear Inc., and the respondent, the Government of Uruguay, an opportunity to present oral views. However, neither party requested a hearing.

John D. Greenwald,

Acting Assistant Secretary for Trade Administration.

March 24, 1981.

[FR Doc. 81-9425 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 614]

Werner J. Bruchhausen, et al.; Export Privileges; Temporary Denial

In the matter of Werner J. Bruchhausen, D8019 Niederseeon, Federal Republic of Germany; Anatoli T. M. Maluta, a.k.a. Tony Metz, 231 Calle Mayor, Redondo Beach, CA; Sabina Dorn Tittel, a.k.a. Sabina Dorn, 30605 Cartier Drive, Rancho Palos Verdes, CA; Techma GmbH, Koenigstrasse 10, Duesseldorf, Federal Republic of Germany; Ing. Dietmar Ulrichshofer Vertriebs, Baderstrasse 5 and Floriangasse 19, 8230 Bad Reichenhall, Federal Republic of Germany; and Electronic Elektronische Bauelemente GmbH, 49-51 Ameisgasse, 1140 Vienna, Austria; respondents; order temporarily denying export privileges.

The Department of Commerce, pursuant to the provisions of § 388.19 of the Export Administration Regulations, has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to the above-named respondents.

The Department states that the above-named respondents are being investigated by the Compliance Division of the Office of Export Administration. The investigation gives the Department reason to believe that the above-named respondents engaged in a scheme involving the export and reexport of United States-origin high technology electronic and other controlled commodities to proscribed destinations without obtaining the requisite validated export licenses. The investigation, which is continuing, gives the Department substantial reason to believe that the national security and public interest are best protected by the issuance of an order immediately denying all export privileges to these respondents in order to prevent further export and reexport of U.S.-origin commodities by respondents.

On the evidence before me and pending completion of the investigation and final disposition of any administrative and/or judicial proceedings which may be instituted against the respondents, I find that a temporary order denying all export privileges to the respondents is reasonably necessary for the protection of the national security and public interest. Accordingly, it is hereby

Ordered

I. All outstanding validated export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assigns, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United

States in whole or in part, or to be exported, or which are otherwise subject to the Export Administration Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) as parties or as representatives of a party to a validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or of any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to, or in the receiving , ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part, exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successor and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any named respondent or related party, or whereby any named respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any named respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Export Administration Regulations, the parties may file at any time a motion asking the Hearing Commission, International Trade Administration, U.S. Department of Commerce, Room 3810, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, to vacate, extend or modify this temporary denial order. The motion must be supported by substantial evidence. The parties may request an oral hearing on the motion, to be held before the Hearing Commission at the earliest convenient date. The Hearing Commissioner shall receive evidence and shall issue such order disposing of the motion as he deems reasonable and just.

VI. This order is effective immediately. It shall remain in effect until the final disposition of any administrative and/or judicial proceeding or proceedings initiated against the named respondents have been completed. A copy of this order shall be served upon all respondents.

Dated: March 24, 1981.

Bertram Freedman,

Hearing Commissioner.

[FR Doc. 81-9424 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its program to operate one San Francisco Region project for a twelve month period. The total cost of the project is $141,000.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grants and Cooperative Agreements Act of 1977, will be a grant.

Program Description: The General Business Services Program (GBS) of the Minority Business Development Agency (MBDA) provides technical assistance to minority businesspersons and firms for the purpose of improving their stability by increasing their management and marketing capabilities. MBDA offers competitive grants to consulting firms (either profit or non-profit). These firms must be capable of providing such services as:

Preparation of business plans
Financial packaging
Industrial management assistance
Personnel management services
Marketing planning

and a broad range of other business services excluding legal services.

Applications are invited for the following project under this program: One grant for a management and technical assistance project to operate in the Seattle-Everett, Washington SMSA consisting of the counties of King and Snohomish. The project will operate at a cost not to exceed $141,000 for an initial budget period of 12 months beginning July 1, 1981. The Project I.D. Number is 10-10-80001-01. A pre-application conference for this project will be held on April 9, 1981 at the Federal Building, 915 2nd Avenue, Seattle, Washington in Room 1844 from 1:30 PM to 5:30 PM.

Eligibility Requirements: There are no restrictions. Any profit or nonprofit institution is eligible to submit an application.

Application Materials: An application kit for these projects may be requested by writing the following address: U.S. Department of Commerce, Minority Business Development Agency, Grants Administration Unit, 450 Golden Gate Avenue, Box 36014, San Francisco, California 94102.

In requesting an application kit, the applicant must specify its profit status, i.e., State or local government, Federally recognized Indian tribe, educational institution, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit. Questions regarding this announcement should be referred to the San Francisco Grants Administration Unit at (415) 556-3090.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated are included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of April 30, 1981.

This program is not subject to the requirements of OMB Circular A-95.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Date: March 24, 1981.

R. V. Romero,

Regional Director.

[FR Doc. 81-9487 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency announces replacement of Project No. 01-10-80014-01 (Hartford, Connecticut SMSA) with that described below.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreements Act of 1977, will be a grant.

Program Description: The General Business Services Program of the Minority Business Development Agency (MBDA) provides technical assistance without charge to eligible minority business persons and minority-owned firms for the purpose of improving their stability by increasing their management and marketing capabilities. MBDA offers competitive grants to consulting firms (either not-for-profit or commercial entities). These firms must be capable of providing such services as preparation of business plans, financial analysis, industrial management assistance, personnel management, marketing planning, and a broad range of other business services excluding legal services. Applications are invited for the following project:

One grant for a management and technical assistance project to operate in the State of Connecticut. The Project will operate at a cost not to exceed $165,000. The Project Number is 01-10-80019-01.

Eligibility Requirements: There are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address:

U. S. Department of Commerce, Minority Business Development Agency, 26 Federal Plaza, Room 36-116, New York, New York 10278.

In requesting an application kit, the applicant must specify its profit status; i.e., State or local government, Federally recognized Indian tribal units, educational institutions, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Those firms which submitted applications for Project 01-10-80014-01 will receive the specification for the replacement. All others must request them.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated is included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of April 16, 1981. Applications received after that date will not be considered. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance) (This program is not subject to the requirements of OMB Circular A-95)

Dated: March 23, 1981.

Carlton L. Eccles,

Regional Director.

[FR Doc. 81-9472 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; 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), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name: Sarah Hinckley (P275).

b. Address: 2704 NE 53rd Street, Seattle, Washington 98105.

2. Type of Permit: Scientific Research/Scientific Purposes.

3. Name and Number of Animals: Humpback Whales (*Megaptera novaeangliae*)—up to 25.

4. Type of Take: Potential harassment while photographing and observing.

5. Location of Activity: Yakutat Bay, Alaska.

6. Permit of Activity: June through August 1981 and 1982.

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, within 30 days of the publication of this notice. 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 statement 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.;

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: March 23, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-9517 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a marine mammal permit as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: 454802 Ontario Limited (P276)

b. Address: Panasonic Tower-Center, 6732 Oakes Drive, Niagara Falls, Ontario, Canada

2. Type of Permit: Public Display.

3. Name and Number of Animals:

Atlantic bottlenose dolphins (Tursiops trucatus), 2

California sea lions (Zalophus californianus), 3

4. Type of Activity: To display marine mammals for approximately five months of the year. Animals are presently in

captivity and owned by Louis Scarpuzzi Enterprises, Fort Meyers, Florida.

5. Period of Activity: 3 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

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, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. 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.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 F.R. 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. a certification from such appropriate government agency verifying the information set forth in the application;

ii. a certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. a statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Ministry of Agriculture and Food of Canada have been found appropriate and sufficient to allow consideration of this permit application.

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, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: March 23, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-9516 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; 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: LGL Ltd. Environmental Research Associates (P273)

b. Address: 2453 Beacon Avenue, Sidney, British Columbia, Canada U8L1X7

2. Type of Permit: Scientific Research & Scientific Purposes.

3. Name and Number of Animals: Bowhead Whale (Balaena mysticetus), 250

4. Type of Take: Potential harassment.

5. Location of Activity: High Seas, Canadian Beaufort Sea.

6. Permit of Activity: July through September 1981.

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 Fishieries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. 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 statement 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.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 F.R. 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) it is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) it includes:

i. a certification for such appropriate government agency verifying the information set forth in the application;

ii. a certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. a statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the government of the Northwest territories, Canada have been found appropriate and sufficient to allow consideration of this permit application.

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, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: March 23, 1981.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-9517 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council's Scientific and Statistical Committee; Amended Notice of Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The meeting notice for the South Atlantic Fishery Management Council, previously published in the **Federal Register** (46 FR 17073), announced that the South Atlantic Fishery Management Council would meet on April 7–8, 1981. The notice should have indicated, instead, that the South Atlantic Fishery Management Council's Scientific and Statistical Committee would meet. All other information remains unchanged.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: March 24, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-9519 Filed 3-27-81; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

M-X Missile Program; Public Hearings on Draft Environmental Impact Statement; Correction

This notice is to amend the notice of public hearings on the Draft Environmental Impact Statement (EIS) for the M-X missile program which appeared in the **Federal Register** on Friday, March 13, 1981 on page 16708.

The hearings scheduled for Santa Fe, New Mexico on April 13 (1:30 pm and 7:00 pm) have been changed to April 24 (1:30 pm and 7:00 pm).

Other locations and dates remain unchanged.

Carrol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 81-9414 Filed 3-27-81; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

National Council on the Handicapped; Public Forum

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of public forum: Request for public participation.

Background Information

The National Council on the Handicapped was established under P.L. 95–602, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978, with the following duties: (1) establish general policies for and review the general operation of, the National Institute of Handicapped Research; (2) provide advice to the Commissioner with respect to policies of and conduct of the Rehabilitation Services Administration; (3) advise the Commissioner, the appropriate Assistant Secretary, and the Director of NIHR on development of programs to be carried out under the Rehabilitation Act as amended; (4) review and evaluate on a continuing basis all policies, programs and activities concerning handicapped individuals and persons with developmental disabilities conducted or assisted by Federal departments and agencies in order to assess their effectiveness in meeting needs; (5) make recommendations to the Secretary, the Commissioner and the Director of NIHR respecting ways to improve research concerning handicapped individuals, and the methods of collecting and disseminating findings of such research and to make recommendations for facilitating the implementation of programs based upon such findings; and submit annually a report to the Secretary, the Congress and the President of the United States containing a statement of the current status of research concerning the handicapped in the United States, a review of the activities of RSA and NIHR, and recommendations concerning such research and activities as the Council considers appropriate.

Briefly summarized, the Council's mission is to:

- Establish general policies and review the operation of NIHR
- Review and evaluate the policies and programs of all Federal agencies
- Advise RSA on policy development and conduct of activities
- Make recommendations on improving research on the handicapped

In its first three meetings, held November 13–14, 1980, December 15–16, 1980 and February 18–20, 1981; the Council focused its attention on the activities and policies of the National Institute of Handicapped Research and of the Rehabilitation Services Administration. At its next meeting, the Council will begin its review of other Federal agency programs with reports by the Office of Special Education and the Administration on Developmental Disabilities. The Council is also interested in hearing from individuals and organizations outside of the Federal Government. *The Council therefore will hold a public forum, in order to invite public comment on the following topic: "The place of disabled individuals in our economy".* Given the Council's mission to make recommendations toward assuring that programs assisted by the Federal government are effective in meeting the needs of individuals with disabilities, and given the Council's focus on research related programs and rehabilitation services, the Council has developed a series of questions within this broad topic as guidelines. In consideration of the Council's stated mission, responses should be addressed from the perspective of:

- Forward looking, positive suggestions, new ideas
- Constructive partnership solutions—i.e., ways for the Federal government to participate with state and local governments and with the private sector
- Researchable ideas that impinge on the place of the disabled in the economy.

The Council is particularly interested in hearing from those whose successful experiences or suggestions may lead to improved or advanced economic status for disabled persons.

Date, Time, and Place of Forum

The Council's open forum will be held at the Washington Hilton Hotel, 1919 Connecticut Avenue, N.W., Washington, D.C. on Wednesday, May 6, 1981 from 1 to 4 p.m.

The President's Committee on Employment of the Handicapped (PCEH) will hold its annual meeting at this site. The Council's forum will be held in cooperation with PCEH. The location of the Council's meeting room will be announced at the registration desk for the PCEH meeting.

Written statements *must* be submitted in order to participate in the forum. Comments postmarked no later than April 17, 1981 will be considered for oral presentation at the forum.

Use of Information Received by the Council

All written statements received by the Council will be reviewed. Once the information has been synthesized and analyzed, some summaries will be selected for *oral presentation* at the Council's open forum on Wednesday, May 6, 1981. Selection will be based upon the extent to which ideas are relevant to the topic of this forum. The Council wishes to hear from a broad range of public participants. Where there are overlapping topics, decisions as to oral presentations may be based

on the date of receipt, on availability of presenter, and on the relationship to other topics being presented to aid in the cohesiveness of the forum. Whether or not a summary of a paper is selected for presentation at the forum, the information will be available to the council for its consideration.

Information will be used by the Council for the following purposes: The Council may use suggestions as a basis for advising officials of Federal agencies, for guidelines in setting priorities for NIHR, for assisting the Council to determine what studies need to be commissioned, and for making recommendations to be included in the Council's Annual Report to the Secretary, the Congress and the President.

Discussion Areas and Concerns

Written comments directed to the Council should address one or more of the following categorical topics. The statement of *no longer than fifteen typewritten, double spaced pages* should begin with a key to the topics addressed, e.g., Topic (B). Statements addressing more than one topic should be subdivided so that the topic can be identified, e.g. (Part I, Topic B—Part II, Topic D). A summary of *no longer than three double spaced pages which can be presented within five minutes* (accommodations will be made for communication disabilities) should be attached and similarly coded to topic areas. Topic areas represent concerns or issues that have repeatedly surfaced. Instead of continuing to debate the existence of these problems, the Council asks commenters to focus on new and innovative solutions to these recurrent concerns.

Suggested topics are as follows:

A. Placement

State employment services and private employment agencies appear to vary in their adequacy for assisting handicapped applicants find work. How can State and private agencies more adequately maintain information about employer needs and more effectively match jobs to the abilities and interests of job seekers? The Council is particularly interested in hearing from those whose successful experiences in matching individuals with jobs might have wide application and would like suggestions on how government might facilitate private agency involvement.

To the extent that individuals with disability may compete with other target populations in the labor market, what recommendations can be made in order that disabled workers are given equal opportunity?

How can the flow of skilled rehabilitation professionals be maintained to foster placement of handicapped workers?

B. Training

What effective efforts are currently underway for providing handicapped individuals with marketable skills in occupational clusters that offer lateral and upward mobility potential?

What new technologies are emerging that offer a substantial promise of employment opportunities for disabled workers?

What should be the contribution of vocational education programs in secondary schools toward enhancing the career potential of disabled adolescents and young adults in the labor market?

C. Accessibility

What innovative approaches have been used to eliminate barriers to employment? The Council is particularly interested in adaptions that may have widespread application, and in aspects of accessibility that do *not* fall under the purview of the Architectural, Transportation, and Communication Barriers Compliance Board (Section 502 of the Rehabilitation Act, as amended).

D. Disabled Racial Minorities

Are minority handicapped individuals the victims of double discrimination? The Council is interested in findings that support or contradict reports of biases that may influence employment opportunities for minorities.

To the degree that such bias may be a reality, what suggestions for positive change can be proposed?

E. Employer Incentives

What incentives can be offered employers to improve their record in hiring and training of the disabled? For example, what use might be made of the Federal and State tax system?

F. Unions

To the extent that union apprenticeship program requirements might inhibit employment of handicapped people in trade occupations, what successful experiences can be reported that might serve as a model for other employers and their unions?

G. Job Market Prospects

Public and private agencies usually base training programs on continuing up-to-date analyses of employer needs and job market conditions. The Council is interested in hearing about successful, systematic surveys that have analyzed job market conditions, utilized the information, and disseminated the findings. The Council is particularly interested in replicable techniques for job market analyses and utilization.

H. Insurance

Employers have reported the fear that safety risks and related insurance increases may outweigh the benefits of hiring disabled workers. What objective data is available to analyze this question?

What studies have been done and what is left to do pertaining to the costs and the distribution of costs of medical care for disabled people who may be in the labor market? For example, should costs of medical care related to the disability be separated from costs unrelated to the disability? The Council is interested in data that would support development of private and government coverages (both group and individual).

I. Goals and Career Choices of Children

How can the education system best enhance potential productivity of handicapped children? Should aspirations toward highest career goals be fostered? If so, how?

J. Self-Employment (Including Work in the Home)

What suggestions can be made to make self-employment more feasible? Are there obstacles to entering self-employment activities?

The computer and electronics communications fields are expected to increase the number of jobs performed by employees in their own homes. What implications does this have for employment of handicapped individuals? What steps can be taken to maximize benefits of this trend? For example, how can we assure that accommodations are building into the system in order to avoid the need for retrofitting later?

Do other fields offer opportunities for those who prefer or need to work in their homes?

K. Residential Placement

It is desirable and feasible to encourage productive remunerative work activities on the part of persons who by necessity are confined to residential health care facilities?

L. Employment of Deinstitutionalized

Deinstitutionalization has enabled large numbers of disabled people who formally would have remained hospitalized to enter community living. This increase poses challenges for traditional rehabilitation agencies, including those assisting chronically mentally ill and mentally retarded individuals. What experiences or suggestions can be offered for assisting with smooth transition to competitive employment?

M. Economic Factors Affecting Disabled Persons Not in the Labor Force

Enhancing the productivity of disabled persons contributes positively to the American economy; it is less recognized that reducing the social and personal dependency of persons who may be unable to become self-supporting also makes a positive contribution. The Council is interested in recommendations for change in systems for support (correlating income maintenance, social and health services, education, housing, etc.) which could be more cost beneficial, at least for some persons, than those through which most public dollars now flow. Emphasis should be placed on documentation or on researchable gaps in knowledge. Comments on the impact of costs on private sector components (including individuals and families), as well as on the public treasury are sought. Recommendations specific to children, adolescents, young adults, older adults (with or without families) or the elderly are especialy welcome.

Individuals or organizations who wish to submit papers or suggest future topics should write to: Carol Berman, Executive Director, National Council on the Handicapped, U.S. Department of Education, Office of Special Education and Rehabilitative Services, MES-3106, Washington, D.C. 20202.

Dated: March 24, 1981.

Carol Berman,

Executive Director.

[FR Doc. 81-9535 Filed 3-27-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Intent to Revise Transmission Policy; Extension of Public Comment Period

AGENCY: Department of Energy, Bonneville Power Administration.

ACTION: Extension of comment period on notice of intent to revise transmission policy.

SUMMARY: By **Federal Register** Notice of February 17, 1981 (46 FR 12658), Bonneville Power Administration (Bonneville) announced its intent to revise its transmission policy. This Notice extends the period that Bonneville will accept recommendations for its proposed transmission policy from the public from March 31, 1981, to April 30, 1981, or the last day of Bonneville's hearings on its proposed transmission rate adjustment, whichever date is later.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361, extension 4261. Oregon callers outside of Portland may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048.

John H. Jones, Portland Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503-234-3361, ext. 4551;

Ladd Sutton, Eugene district Manager, Room 206, U.S. Federal Building, 211 East 7th Street, Eugene, Oregon 97401, 503-345-0311;

Ronald H. Wilkerson, Spokane Area Manager, Room 561, U.S. Court House, East 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518;

Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-775-6202;

Ronald K. Rodewald, Wenatchee, Wenatchee, Washington 98801, 509-662-4379;

Randall W. Hardy, Seattle Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130;

Roy Mishi, Walla Walla Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, ext. 701;

Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTAL INFORMATION: Bonneville has announced its intent to revise its transmission policy (46 FR 12658, February 17, 1981). Bonneville expects to publish a proposed policy for public comment in the fall of 1981 and to announce a final transmission policy in the spring of 1982. In its Notice, Bonneville invited interested persons to submit suggestions, advice, and recommendations through March 31, 1981. Because the initial stages of policy revision coincide with the development of Bonneville's transmission rates which will become effective on or about July 1, 1981, Bonneville also encouraged the public to make recommendations and suggestions for the transmission policy during Bonneville's hearings on its proposed transmission rate adjustments. Because the hearings will extend beyond the original date of March 31, 1981, Bonneville is extending the period for submitting suggestions, advice, and recommendations through April 30, 1981, or the last day of Bonneville's hearings on its proposed transmission rate adjustments, whichever is later. The final date of hearings will be announced in the **Federal Register.**

When the proposed transmission policy is published, Bonneville will announce opportunities for the public to participate in further development of its transmission policy.

Date: March 23, 1981.

Stanley E. Efferding,

Acting Administrator.

[FR Doc. 82-9615 Filed 3-26-81; 1:44 pm]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. PP-24-B]

Niagara Mohawk Power Corp.; Electric Energy Transmission to Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Issuance of Supplemental Order in Docket No. PP-24-B, Authorizing the Transmission of Electric Energy to Canada and Superseding Prior Authorization.

SUMMARY: This supplemental order in Docket No. PP-24-B authorizes the Niagara Mohawk Power Corporation (Niagara Mohawk) to export electricity to Canada. The total energy to be exported to St. Lawrence Power Company will include a maximum of 300,000 megawatt-hours at a maximum rated of 100 megawatts, of which 225,000 megawatts-hours at a maximum rate of 45 megawatts shall be imported by Niagara Mohawk from Canadian Niagara Power Company, Limited (Canadian Niagara), an Ontario Corporation.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., Division of Power Supply & Reliability, Department of Energy, Room 4110, 200 M Street, NW., Washington, D.C. 20461, (202) 653-3825;

Lise Courtney M. Howe, Office of the General Counsel Department of Energy, Forrestal Building, Room 5E-064, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: Niagara Mohawk filed an application on October 1, 1980, with the Division of Power Supply and Reliability for an amendment to their DOE authorization to export electric energy to Canada, which was issued on June 19, 1978, pursuant to Section 202(e) of the Federal Power Act. Niagara Mohawk originally had filed an application for export authorization with the Federal Power Commission (FPC) on July 7, 1977. Upon the creation of the Department of Energy (DOE), that application was transferred from the FPC to DOE pursuant to Sections 301 and 402(f) of the DOE Organization Act. The June 19, 1978, authorization permitted Niagara Mohawk to export electric energy to the St. Lawrence Power Company (St. Lawrence) at a maximum delivery rate not to exceed 100 megawatts with an estimated annual delivery not to exceed 300,000 megawatt-hours. The authorization included the import of a maximum of 200,000 megawatt-hours at a maximum rate of 40 megawatts from Canadian Niagara for further delivery to St. Lawrence. The prior authorization provided that receipt of the 40 megawatts of electric power from Canadian Niagara would occur at the International Boundary between Niagara Falls and Fort Erie, Ontario, and Niagara Falls, Lewiston, and Buffalo, New York. The electricity then is transmitted by Niagara Mohawk to the facilities of Long Sault, Inc., at the International Border between Massena, New York and Cornwall, Ontario, for the account of St. Lawrence. The remaining electric energy to be exported by Niagara Mohawk to St. Lawrence is

supplied from Niagara Mohawk's own bulk power system. Prior to issuing the June 19, 1978, authorization, the DOE staff found that Niagara Mohawk had sufficient capacity to meet its commitments to St. Lawrence during the period of the authorization without restricting any of its commitments to its retail customers or to its other bulk customers. The actual amounts of energy exported depend upon: (1) the availability to Niagara Mohawk of surplus energy; (2) the capacity of Niagara Mohawk's transmission system; and (3) the requests for energy made by St. Lawrence.

St. Lawrence utilizes the electric energy purchased and received from Niagara Mohawk for emergency purposes and as a supplement to its normal requirements. St. Lawrence's present sources of supply are unable to meet its normal requirements during the period of October to March of each year.

In its application of October 1, 1980, Niagara Mohawk requested that its export authorization be amended in order to permit export to St. Lawrence Power Company of a maximum 45 megawatts and a maximum 225,000 megawatt-hours annually generated by Canadian Niagara. The request for amendment does not include an increase in the total export limit of 300,000 megawatt-hours authorized by DOE on June 19, 1978. Niagara Mohawk notes that the energy for which St. Lawrence is billed by Canadian Niagara is metered at Niagara Falls, Ontario. Thus, the energy imported by Niagara Mohawk is owned by St. Lawrence through a contractual agreement with Canadian Niagara. St. Lawrence is authorized by Canada's National Energy Board to export that firm power and energy from Canada under license EL-114.

Niagara Mohawk has requested this amendment because Canadian Niagara has additional firm power (5 megawatts) available for sale to St. Lawrence. An analysis performed by St. Lawrence indicates that the additional 5 megawatts of firm power purchased from Canadian Niagara and transferred through the Niagara Mohawk system is more economical than purchasing it directly from Niagara Mohawk. In its application, Niagara Mohawk states that it has the transfer capacity available to provide this service.

Prior opportunity for public comment in this proceeding has not been provided since the change requested will not result in an increase in the total amount of electricity exported; instead, the amount of electric energy from Niagara Mohawk's system which is exported may decrease. However, if any person wishes to protest with reference to this Order, he should, on or before April 13, 1981, file with the Director, Division of Power Supply and Reliability, Room 4103, 2000 M St., N.W., Washington, D.C. 20461, petitions to intervene or protests in accordance with 18 CFR §§ 1.8 or 1.10 of the Rules of Practice and Procedure. The DOE staff will consider all such petitions and will reopen this Docket if any substantial issues are raised.

Findings

(1) The proposed transmission of electric energy from the United States to Canada, as limited herein and as hereinafter authorized, will not impair the sufficiency of electric supply within the United States and will not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the DOE.

(2) The method of public notice given in this matter is reasonable.

Authorization

(A) Niagara Mohawk is hereby authorized to transmit electric energy from the United States to Canada in accordance with the terms and conditions set forth in the application of July 7, 1977, and subject to the provisions of this Order.

(B) The electric energy which Niagara Mohawk hereby is authorized to transmit from the United States to St. Lawrence Power Company shall be transmitted at a rate not to exceed 100 megawatts and an annual delivery not to exceed 300,000 megawatt-hours. This electricity shall include a maximum of 225,000 megawatt-hours at a maximum rate of 45 megawatts received by Niagara Mohawk from Canadian Niagara but owned by St. Lawrence. Niagara Mohawk is authorized to receive the 45 megawatts of electric power at the International Boundary between Niagara Falls and Fort Erie, Ontario, and Niagara Falls, Lewiston, and Buffalo, New York, and to transmit it to the facilities of Long Sault, Inc., at the International Border between Massena, New York, and Cornwall, Ontario, for the account of St. Lawrence. The remaining electric energy to be exported by Niagara Mohawk to St. Lawrence shall be supplied from Niagara Mohawk's own bulk power system, pursuant to the terms of a Contract for Service, a copy of which was filed as an exhibit to the July 7, 1977, application in this Docket. The actual amounts of energy to be exported will depend upon: (1) the availability of surplus energy; (2) the capability of Niagara Mohawk's transmission system; and (3) the requests for energy submitted by St. Lawrence.

(C) The authorization herein granted may be modified from time to time or terminated by further order of the DOE, but in no event shall such authorization extend beyond the date of termination or expiration of Presidential Permits authorizing the electric interconnections at the International Border between Niagra Falls, Ontario, and Niagara Falls, New York, and the interconnection at the International Border between Massena, New York, and Cornwall, Ontario, referred to in Paragraph (B) above.

(D) Niagara Mohawk shall conduct all operations pursuant to the authorization herein granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations, or orders issued or adopted by the DOE.

(E) Niagara Mohawk shall provide for the installation and maintenance of adequate metering equipment to measure the flow of all electric energy transmitted from the United States to Canada pursuant to the authority herein granted; shall make, keep, and preserve full and complete records with respect to the movement of such electricity; and shall furnish, in triplicate to the Division of Power Supply and Reliability, with respect to such transmission of electricity, reports annually on or before February 15, showing the kilowatts per hour delivered, the maximum kw rate of transmission, and the consideration received therefore during each month of the preceding calendar year.

(F) This authorization to transmit electric energy from the United States to Canada shall not be transferable or assignable, but in the event of the involuntary transfer of the facilities used for such transmission by operation of law (including such transfers to receivers, trustees, or purchasers under foreclosre or judicial sale), said authorization shall continue in effect temporarily pending the making of an application for permanent authorization and decision thereon, provided notice is given in writing to the DOE within 30 days following such event, accompanied by a statement that the physical facts relating to sufficiency of supply, rates, and nature of use remain substantially the same as before the transfer.

(G) The authorization herein granted shall supersede that heretofore granted by the aforementioned Order issued June 19, 1978, in Docket Nos. IE-78-7, et al.

Dated: March 20, 1981.

Howard F. Perry,

Acting Assistant Administrator for Utility Systems, Department of Energy.

[FR Doc. 81-9483 Filed 3-27-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW., Washington, D.C. 20461, phone 202/653-3517. On or before April 14, 1981, 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 Washington, D.C., on the 24th day of March 1981.

Robert D. Gerring,

Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

Proposed Remedial Orders

Station	Address	Date	Violation amount	Highest cents per gallon violation
Northeast District				
Marinas of the Future, Inc	Northern Blvd. and 125th Street, Flushing, NY 11368	2/25/81	$24,064.29	26.4
Southeast District				
Parkway Union 76	288 N. Parkway, Gatlingburg, TN 37738	9/11/79	$364.50	8.4
Central District				
Gage's Marina Corp	Williams Bay, WI 53191	8/20/80	$3,459.56	24.6
Southwest District				
Christian's 66 Service	2101 South Classen Norman, OK 73071	3/2/81	$6,359.17	7.8
Western District				
Gorman Mobil	49715 Gorman School Rd., Gorman, CA	1/19/81	$86,073.35	36.7

[FR Doc. 81-9448 Filed 3-27-81; 8:45 am]

BILLING CODE 6450-81-M

Federal Energy Regulatory Commission

[Docket Nos. CI81-3-001, et al.]

Applications for Certificates, Abandonment of Service and Petitions To amend Certificates [1]

March 18, 1981.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Anyone person desiring to be heard or to make any protests with reference to said applications should on or before April 2, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless other advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket number and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI81-3-001, C, 2/23/81	Texoma Producing Company, P.O. Box 90996, Houston, Texas 77090.	Natural Gas Pipeline Company of America, Sabine Pass Block 9 Field, Offshore Louisiana.	(1)	15.025
CI81-171-000, B, 1/21/81	George W. Graham, 400 First Wichita National Bank Building, Wichita Falls, Texas 76301.	Loner Star Gas Company, The Neville H. Huff, No. 2, N. H. Huff, A No. 3, G.M. Riddle No. 1, and the Morris-T & P Railroad Company No. 1 Wells, Grayson County, Texas.	(2)	
CI81-229-000, E, 3/5/81 [3]	Southland Royalty Company (Succ. in Interest to Shenandoah Oil Corporation), 1000 Fort Worth Club Tower, Forth Worth, Texas 76102.	El Paso Natural Gas Company, Eumont and Jalmat Fields, Lea County, New Mexico.	(4)	14.65
CI81-230-000, E, 3/5/81 [3]	do	Kansas Nebraska Natural Gas Company, North Bowdoin Area, Phillips County, Montana.	(5)	15.025
CI81-231-000, E, 3/5/81 [3]	do	El Paso Natural Gas Company, Sonora Field, Sutton County, Texas.	(6)	14.65
CI81-232-000, E, 3/5/81 [3]	do	El Paso Natural Gas Company, Shurley Ranch Field, Sutton County, Texas.	(7)	14.65
CI81-233-000, E, 3/5/81 [3]	do	El Paso Natural Gas Company, Spraberry Trend Field, Upton County, Texas.	(8)	14.65
CI81-234-000, E, 3/5/81 [3]	do	El Paso Natural Gas Company, Calvin Field, Reagan County, Texas.	(9)	14.65
CI81-235-000, E, 3/5/81 [3]	do	El Paso Natural Gas Company, Basin Dakota Field, San Juan County, New Mexico.	(10)	15.025
CI81-240-000, E, 3/5/81 [3]	do	El Paso Natural Gas Company, Langlie-Mattix Field, Lea Courity, New Mexico.	(11)	14.65
CI81-241-000, E, 3/5/81 [3]	do	El Paso Natural Gas Company, Langlie-Mattix Field, Lea County, New Mexico.	(12)	14.65
CI81-242-000, E, 3/12/81 [11]	Getty Oil Company (Succ. in Interest to Getty Reserve Oil Inc.), P.O. Box 1404, Houston, Texas 77001.	El Paso Natural Gas Company, Jalmat-Oil Field, Lea County, New Mexico.	(13)	14.65
CI81-243-000, E, 3/12/81 [11]	do	Transcontinental Gas Pipe Line Corporation, Greta Field, Refugio County, Texas.	(14)	14.65
CI81-244-000, E, 3/12/81 [11]	do	Texas Gas Pipeline Corporation, Marrs McLean Field, Jefferson County, Texas.	(15)	14.65
CI81-245-000, E, 3/12/81 [11]	do	Columbia Gas Transmission Corporation, Ravenswood Field, Jackson County, West Virginia.	(16)	14.65
CI81-246-000, E, 3/12/81 [11]	do	Cities Service Gas Company, Liberal South Field, Beaver and Texas Counties, Texas.	(17)	14.65
CI81-247-000, E, 3/12/81 [11]	do	El Paso Natural Gas Company, Jalmat and Langlie-Mattix Fields, Lea County, New Mexico.	(18)	14.65
CI81-248-000, E, 3/12/81 [11]	do	Transcontinental Gas Pipe Line Corporation, Bayou Piquant Field, Terrebonne Parish, Louisiana.	(19)	15.025
CI81-249-000, E, 3/12/81 [11]	do	United Gas Pipe Line Company, Burnell and North Pettus Fields, Bee, Goliad, and Karnes Counties, Texas.	(20)	14.65
CI81-250-000, E, 3/12/81 [11]	do	Transcontinental Gas Pipe Line Corporation, Galveston Area, Blocks A-131 and A-157, Offshore Texas.	(21)	14.65
CI81-251-000, E, 3/12/81 [11]	do	Texas Eastern Transmission Corporation, Northwest Chalkley Field, Calcasieu Parish, Louisiana.	(22)	15.025
CI81-252-000, E, 3/12/81 [11]	do	Transcontinental Gas Pipe Line Corporation, La-Gloria Field, Jim Wells, and Brooks Counties, Texas.	(23)	14.65
CI81-253-000, E, 3/12/81 [11]	do	Transcontinental Gas Pipe Line Corporation, High Island Blocks A-446, A-447, and A-448 Field, Offshore Texas.	(24)	14.65
CI81-254-000, E, 3/12/81 [11]	do	Texas Eastern Transmission Corporation, East Melrose Field, Dewitt, Goliad and Live Oak Counties, Texas.	(25)	14.65
CI81-255-000, E, 3/12/81 [11]	do	El Paso Natural Gas Company, Jalmat and Langlie-Mattix Fields, Lea County, New Mexico.	(26)	14.65
CI81-256-000, E, 3/12/81 [11]	do	Natural Gas Pipeline Company of America, LaGloria Field, Jim Wells and Brooks Counties, Texas.	(27)	14.65
CI81-257-000, E, 3/12/81 [11]	do	United Gas Pipe Line Company Yougeen Field, Bee County, Texas.	(28)	14.65

[1] Applicant is filing under Gas Purchase Contract dated May 1, 1980, Amended by Amendatory Agreement dated February 17,1981.
[2] No gas delivered since February 1977 because production sufficient only to operate two heater-treaters for oil production.
[3] Effective as of February 1, 1979, Southland acquired all of Shenandoah's interest in properties.
[4] Applicant is filing under Gas Purchase Agreement dated October 22, 1954.
[5] Applicant is filing under Gas Purchase Contract dated October 17, 1977.
[6] Applicant is filing under Gas Purchase Contract dated January 29, 1965.
[7] Applicant is filing under Gas Purchase Contract dated June 30, 1972.
[8] Applicant is filing under Gas Purchase Contract dated September 11, 1962.
[9] Applicant is filing under Gas Purchase Contract dated May 1, 1959.
[10] Applicant is filing under Gas Purchase Contract dated May 24, 1963.
[11] Effective August 1, 1980, Getty Reserve Oil, Inc. assigned all of its oil, gas and mineral properties, assets and rights to Getty Oil Company.
[12] Applicant is filing under Replacement Gas Purchase Contract dated December 31, 1975.
[13] Applicant is filing under Gas Purchase Contract dated November 1, 1949.
[14] Applicant is filing under Gas Purchase Contract dated February 15, 1976.
[15] Applicant is filing under Gas Purchase Contract dated June 16, 1971.
[16] Applicant is filing under Gas Purchase Contract dated February 13, 1975.
[17] Applicant is filing under Replacement Gas Purchase Contract dated December 10, 1979.
[18] Applicant is filing under Gas Purchase Contract dated March 22, 1976, Amended Contract dated February 2, 1977.
[19] Applicant is filing under Gas Purchase Contract dated May 28, 1947.
[20] Applicant is filing under Gas Purchase Contract dated May 17, 1979.
[21] Applicant is filing under Gas Purchase Contract dated November 18, 1975.
[22] Applicant is filing under Gas Purchase Contract dated November 7, 1974.
[23] Applicant is filing under Gas Purchase Contract dated January 17, 1980.
[24] Applicant is filing under Replacement Gas Purchase Contract dated October 5, 1973.
[25] Applicant is filing under Replacement Gas Purchase Contract dated December 31, 1975.
[26] Applicant is filing under Gas Purchase Contract dated January 25, 1950.
[27] Applicant is filing under Gas Purchase Contract dated May 26, 1971.
[28] Applicant is filing under Gas Purchase Contract dated August 22, 1939.
[29] Applicant is filing under Gas Purchase Contract dated July 26, 1939.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

Office of the Secretary

Waiver of Post-Employment Restrictions

In the matter of waiver pursuant to section 605(a)(3) of the Department of Energy Organization Act (Pub. L. 95-91).

Section 605(a)(3) of the Department of Energy Organization Act (Pub. L. 95-91) authorizes the Secretary of Energy to waive the post-employment restrictions of section 605(a)(1) of the Department of Energy Organization Act to permit a former employee with outstanding scientific or technological qualifications to make appearances before or communications to the Department in connection with a particular matter in a scientific or technological field, where it has been determined that such a waiver would serve the national interest.

It has been established to my satisfaction that David T. Leighton, formerly Assistant to the Director for Special Projects in the Division of Naval Reactors, has outstanding technological qualifications in the fields of nuclear power technology and reactor development and operation. I am further satisfied that it serves the national interest to grant a waiver for Mr. Leighton with respect to his activities as Technical Management Consultant to the Metropolitan Edison Company (a subsidiary of the General Public Utilities Service Corporation) relating to—

(1) evaluation, decontamination, and recovery of the Unit II nuclear power plant at the Three Mile Island nuclear power station,

(2) evaluation and resumption of operation of the Unit I nuclear power plant at the Three Mile Island nuclear power station, and

(3) disposal of radioactive waste from nuclear power plants situated at the Three Mile Island nuclear power station.

I have, therefore, waived the post-employment appearance and communication prohibitions of section 605(a)(1) of the Department of Energy Organization Act, with respect to contact with Department of Energy officials by Mr. David T. Leighton in regard to the stated activities in his capacity as Technical Management Consultant to the Metropolitan Edison Company.

Dated: March 12, 1981.

James B. Edwards,

Secretary of Energy.

[FR Doc. 81-9482 Filed 3-27-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53023; TSH-FRL 1791-8]

Premanufacture Notices; Monthly Status Report for February 1981

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for February 1981.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-208, 401 M St., SW., Washington, DC 20460, (202-426-8816).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)) requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** on May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit PMN's for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979. EPA has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

The monthly status report published in the **Federal Register** as required under section 5(d)(3), will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the end of the month; (c) PMN's for which the notice review period has ended during the month; and (d) chemical substances for which EPA has received a notice of commencement to manufacture. Therefore, EPA is publishing the February 1981 PMN Status Report.

Interested persons may submit written comments on the specific chemical substance no later than 30 days before the applicable notice review period ends to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-53023]" and the specific PMN number. Nonconfidential portions of the PMN's written comments received on individual PMN's, and other documents in public record may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Dated: March 24, 1981.

Edward A. Klein,

Director, Chemical Control Division.

Premanufacture Notices Monthly Status Report, February 1981

PMN No.	Identity/generic name	FR citation	Expiration date
	I. Premanufacture Notices Received During the Month		
81-44	3,4,5,6-Tetrahydro-2(1*H*)pyrimidinone	46 FR 16123 (3/11/81)	May 3, 1981.
81-45	Generic name: Polyester(1,4-butanediol/isophthalic acid, dimethyl ester/poly(oxyethylene/oxypropylene/terephthalic acid, dimethylester).	46 FR 16125 (3/11/81)	Do.

Premanufacture Notices Monthly Status Report, February 1981—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
81-46	Generic name: Neutralized polymer of modified epoxy resin	46 FR 15944 (3/10/81)	Do.
81-47	Generic name: Neutralized polymer of modified epoxy resin	46 FR 15944 (3/10/81)	Do.
81-48	Generic name: Substituted polyamine	46 FR 15944 (3/10/81)	Do.
81-49	Generic name: Sodium Poly-4-vinyl-phenolformaldehyde condensate	46 FR 16319 (3/12/80)	May 5, 1981.
81-51	Polymer of tall oil fatty acids, neopentyl glycol, pentaerythritol, isophthalic acid, and benzoic acid	46 FR 16319 (3/12/81)	May 4, 1981.
81-53	Generic name: Ester of salicylic acid	46 FR 16319 (3/12/81)	May 10, 1981.
81-54	Generic name: Disazo dye	46 FR 16319 (3/12/81)	Do.
81-55	Generic name: Acrylate urethane oligomer	In preparation	Do.
81-56	Generic name: Polymer of substituted alkanediol, carbomonocyclic anhydride, and substituted alkanoic ester.	do	Do.
81-57	Acetamide, *N*-[4-([2-hydroxyethyl]sufonyl-2-methoxy 5-methylphenyl)]	do	Do.
81-58	Generic name: Phenolic novalak resin	do	Do.
81-59	Generic name: Pehnolic novalak resin	do	Do.
81-60	Resin from alkali refined safflower oil, neopentyl glycol, trimethylolpropane, isophthalic acid, dimethylolpropionic acid, and isophorone diisocyanate.	do	Do.
81-62	Generic name: Polyester-polyether copolymer reaction product with toluene diisocyanate and hydroxyethyl methacrylate.	do	May 11, 1981.
81-63	Isocyanic acid, tetramethylene bis-(oxytrimethylene)ester	do	Do.
81-64	Generic name: Polymer of neopentyl glycol, adipic acid, trimellitic anhydride, and an aromatic aliphatic ester.	do	Do.
81-65	Generic name: Disubstitutednitrobenzene	do	Do.
81-66	Generic name: Bis[(Substituted)-aminophenyl]-substituent	do	Do.
81-67	Generic name: Bis[(Substituted)-nitrophenyl]substituent	do	Do.
81-68	Generic name: Sodium salt of disulfonated alkylaromatic	do	May 12, 1981.
81-69	Generic name: Benzophenone tetracarboxylic dianhydride copolyimide	do	Do.
81-70	Generic name: 2-Methyl-2-propenioc acid, polycyclohexyl ester	do	May 14, 1981.
81-71	Generic name: Alkenylpyrolidinedione	do	Do.
81-72	2-2-(Chloro-6-cyano-4-nitrophenylzao)-5-[di(*n*-pentyl)amino] acetoanilide	do	Do.
81-73	Generic name: *N*-(Tetrasubstitutedphenyl)-acetamide	do	Do.
81-74	Generic name: Tetrasubstitutedphenol	do	Do.
81-75	2,2,4-Trimethyl-1,3-pentanediol, 1,6-hexanediol, isophthalic acid, terephthalic acid, and dibutyltin oxide	do	May 19, 1981.
81-76	Soya bean oil and polymer of bisphenol A, *p*-tert-butylphenyl, formaldehyde	do	Do.
81-77	Generic name: Tetrasubstitutedphenol	do	May 14, 1981.
81-78	Generic name: Tetrasubstitutedphenol	do	Do.
81-79	Generic name: Polyurethane from substituted alkanols and an aromatic disocyanate	do	May 19 1981.
81-80	Generic name: Trisubstitutedbenzenamine	do	May 14, 1981.
81-81	Generic name: Tetrasubstitutedphenol	do	Do.
81-82	Generic name: Neutralized polymer of styrene, acrylic acid, alkyl acrylate, and alkyl methacrylate	do	May 19, 1981.
81-83	Generic name: Copolymer of dibasic aliphatic and substituted dibasic aromatic carboxylic acids with glycols.	do	Do.
81-84	Generic name: Tetrasubstitutedphenol	do	May 14, 1981.
81-85	Generic name: Tetrasubstitutedphenol	do	Do.
81-86	Generic name: Disubstitutedbenzenamine hydrochloride	do	Do.
81-87	Generic name: Polyether urethane-acrylate blocked	do	May 19, 1981.
81-88	Generic name: Substituted transition metal oxide	do	May 20, 1981.
81-89	Generic name: Expoxy resin/substituted amine adduct	do	May 21, 1981.
81-90	Generic name: Oximine blocked polyurethane prepolymer, waterborne	do	Do.
81-91	Generic name: Hydroxy aryl ether ester of alkenoic acid	do	Do.
81-92	Lithium-lime-hydrogenated castor oil-tallow-naphthenic acid	do	May 19, 1981.
81-93	Acrylic alkenyl ester polymer	do	May 27, 1981.
81-94	Polymer of: *D*-glucose; acetic acid; propanoic acid, 2-oxo, arabinose; *D*-mannose, 6-deoxy; *D*-glucuronic acid, mixed ammonium, calcium, magnesium, potassium, and sodium salt.	do	Do.
81-95	Polymer of: *D*-glucose; succinic acids; propanoic acid, 2-oxo; and galactose, mixed ammonium, calcium, magnesium, potassium, and sodium salt.	do	Do.
81-96	Oxidized soy isolate	do	Do.

II. Premanufacture Notices Received Previously and Still Under Review at the End of the Month

80-341	*N*-*N'*-Nonanedioyl-bis[3,4,5,6-tetrahydro-2(1*H*)pyrimidinone]	46 FR 2717 (1/12/81)	Mar. 1, 1981.
80-342	Diisodecyl dimerate	46 FR 2713 (1/12/81)	Do.
80-343	1,6-Hexanediamine, distillation residues-amines, C_{6+} alkyl di- and C_5 cyclic di- dichloroethane-epichlorohydrin polymer.	46 FR 6065 (1/21/81)	Do.
80-344	Generic name: Metal resinate	46 FR 8710 (1/27/81)	Do.
80-345	Generic name: Dialkyl trithio-carbonate	46 FR 5058	Mar. 2, 1981.
80-346	Ferrous complexed sulfonated tannin	46 FR 8718 (1/27/81)	Do.
80-347	Generic name: Metal amine propanol complex	46 FR 11026 (2/5/81)	Mar. 3, 1981.
80-348	Sunflower oil, polymer with pentaerythritol phthalic anhydride, soybean oil, and trimethylol ethane	46 FR 5058 (1/19/81)	Mar. 6, 1981.
80-349	Sunflower oil, polymer with benzoic acid, and pentaerythritol	46 FR 5058 (1/19/81)	Do.
80-350	Resin polymers with glycerol, phthalic anhydride and sunflower oil	46 FR 5058 (1/19/81)	Do.
80-351	Generic name: Substituted alkanioc acid, alkyl ester	46 FR 8718 (1/27/81)	Do.
80-352	Generic name: Polymer of: Acylic acid, styrene, substituted alkyl acrylates, and alkyl mercaptan	46 FR 8711 (1/27/81)	Do.
80-353	Generic name: Polymer of: An isocyonate and mixture of aliphatic polyols	46 FR 8710 (1/27/81)	Mar. 10, 1981.
80-354	Generic name: Polyester polymer of aliphatic polyols, aromatic diacid, and aliphatic diacid	46 FR 8105 (1/26/81)	Do.
80-355	Generic name: (*p*-Dialkylamino phenyl)-diaryl heterocycle	46 FR 11026 (2/5/81)	Do.
80-358	Generic name: Neutralized polymer of substituted polypropylene oxide and an epoxy resin	46 FR 8714 (1/27/81)	Mar. 11, 1981.
80-359	Generic name: Neutralized polymer of substituted polypropylene oxide and an epoxy resin	46 FR 8714 (1/27/81)	Do.
80-360	2-Propanol, 1-methoxy-acetate	46 FR 12308 (2/13/81)	March 12, 1981.
80-361	Formaldehyde, polymer with *N*-(3-aminopropyl)-1,3-propane diamine, (chloromethyl)oxirane, and phenol	46 FR 8716 (1/27/81)	March 15, 1981.
80-362	A resin from bisphenol A-epichlorohydrin copolymer, bisphenol A, linseed oil fatty acids, tall oil fatty acids, styrene, and acrylic acid.	46 FR 8104 (1/26/81)	Do.
80-364	Generic name: Monoethanol amide of long chain fatty acid	46 FR 8717 (1/27/81)	Do.
80-365	Calcium sodium ethylenediamine tetrakis (methylenephosphonate)	46 FR 5058 (1/19/81)	Do.
80-366	1-Propanaminium, *N,N*-dimethyl, *N*-ethyl-3-[(1-oxoco-coalkyl)amino]-, ethylsulfate	46 FR 11354 (2/6/81)	Mar. 16, 1981.
80-367	Generic name: Vegetable fatty acid modified polyester	46 FR 11354 (2/6/81)	Mar. 16, 1981.
80-368	Generic name: alkenylsuccinic acid, monoester	46 FR 12307 (2/13/81)	Mar. 19, 1981
80-369	Generic name: Polyester di-urethane methacrylate resin based on the reaction of a dialkyl diol/adipic acid polyester diol with toluene disocyanate and hydroxyethyl methacrylate.	46 FR 12836 (2/18/81)	Mar. 23, 1981
80-370	Generic name: Aliphatic triol	46 FR 12304 (2/12/81)	Mar. 22, 1981
80-371	(Alkyl)halothiophosphate	46 FR 12310 (2/13/81)	Mar. 24, 1981.
80-372	Halogenated diphenyl sulfide	46 FR 12310 (2/13/81)	Do.

Premanufacture Notices Monthly Status Report, February 1981—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
80-373	Generic name: Reaction product of 4-nitrosophenol hydroxybenzene and an oxo alkane with sodium sulfide (NA_x (S_x)).	46 FR 12104 (2/12/81)	Mar. 23, 1981.
80-374	Generic name: 4-(Trifluoromethyl)-2-chloro-1-(3-substituted phenoxy) benzene derivative	46 FR 12309 (2/13/81)	Do.
80-375	Generic name: Polymer of methacrylic acid, alkyl acrylate, alkyl methacrylate, and an acrylic acid derivative.	46 FR 12312 (1/13/81)	Do.
80-376	Generic name: Urethane prepolymer	46 FR 11350 (2/6/81)	Do.
80-377	Polymer of: 1,2-ethanediol; 2,5-furandione; 1,3-isobenzofurandione; 1,2-propanediol; and 32,4,7,72-tetrahydro-4,7-methano-1*H*-indene.	46 FR 11349 (2/6/81)	Do.
80-378	Generic name: *N*-(Substituted)-*N*-(substituted)acetamide	46 FR 12312 (2/13/81)	March 24, 1981.
80-379	Generic name: Organosilicon polymer	46 FR 12310 (2/13/81)	Do.
80-380	Generic name: 4-Substituted(substituted benzene)	46 FR 11350 (2/6/81)	March 29, 1981.
80-381	1-Substituted-4-(substitutedheteromonocyclic)benzene	46 FR 11350 (2/6/81)	Do.
80-382	Generic name: Adipic acid, 1,2-propanediol, monocarboxylic acid polyester	46 FR 12305 (2/13/81)	Do.
80-383	Ammonium dilinoleate	46 FR 11349 (2/6/81)	Do.
81-1	Polymer of tall oil fatty acids, neopentyl glycol, trimethylol ethane, phthalic anhydride, and benzoic acid.	46 FR 12315 (2/13/81)	Apr. 2, 1981
81-2	Water reducible siliconized alkyd resin	46 FR 11350 (2/6/81)	Do.
81-3	Methyl, bis (hydroxypropyl) tallow alkyl ammonium methyl sulfate	46 FR 11349 (2/6/81)	Do.
81-4	Polymer of maleic anhydride, phthalic anhydride, dicyclopentadiene, diethylene, diethylene glycol, and adipic acid.	46 FR 12312 (2/13/81)	Do.
81-5	Generic name: Nylon	46 FR 12836 (2/18/81)	Do.
81-6	Polyester-amide polymer	46 FR 12836 (2/18/81)	Apr. 5, 1981.
81-7	Generic name: Modified resorcinol resin	46 FR 12314 (2/13/81)	Apr. 26, 1981.
81-8	Generic name: Urethane resin	46 FR 12314 (2/13/81)	Do.
81-9	Generic name: Silylated phosphonate	46 FR 11352 (2/6/81)	Apr. 13, 1981.
81-10	Generic name: Sodium salt of silylated phosphonate	46 FR 11352 (2/6/81)	Do.
81-11	Polymer of: Esterdiol 204; 1,6-hexanediol; neopentyl glycol; trimethylol propane; isophthalic acid and; and dibutyl tin oxide.	46 FR 11352 (2/6/81)	Do.
81-12	Generic name: Acrylic copolymer adhesive	46 FR 12104 (2/12/81)	Do.
81-13	C_{10-22} Polypropylene ether	46 FR 12836 (2/18/81)	Do.
81-14	Polymer of tetrabromophthalic anhydride, isopthalic acid, ethylene glycol, propylene glycol, and maleic anhydride.	46 FR 12315 (2/13/81)	Apr. 15, 1981
81-15	Polymer of tetrabromopthalic anhydride, isophthalic acid, ethylene glycol, propylene glycol, and fumaric acid.	46 FR 12315 (2/13/81)	Do.
81-16	Generic name: Reaction product of an epoxy and a substituted amine	46 FR 13018 (2/19/81)	Do.
81-17	Generic name: Polymer of methacrylic acid, alkyl methacrylate, alkyl acrylate, and an acrylic acid derivative.	46 FR 13018 (2/19/81)	Do.
81-18	Maleic half ester of ethoxylated aliphatic alcohol emulsifier	46 FR 12104 (2/12/81)	Do.
81-19	Polymer of: Butyl acrylate, methyl acrylate, acrylonitrite, 2-hydroxyethyl acrylate, and acrylic acid	46 FR 12836 (2/18/81)	Do.
81-20	Generic name: Sodium salts of *N*-methylene phosphonic acids of a complex substituted amine mixture (a forecut form the fractionation of a crude carboheterocycle) consisting principally of 2-2'-substituted *bis* ethyl amine.	46 FR 16118 (3/11/81)	Apr. 19, 1981.
81-21	Generic name: Halogenated conjugated diene, polymer with haloalkyl benzene, and alkenoic acid	46 FR 16123 (3/11/81)	Do.
81-22	1, 3-Bis (4-hydroxybutyl)-1, 3-didecyldimethyl disloxane	46 FR 16118 (3/11/81)	Apr. 21, 1981.
81-23	Di (hydrogenatedtallowalkyl)-quaternary ammonium compounds	46 FR 16125 (3/11/81)	Do.
81-24	Ditallowalkylquaternary ammonium compounds	46 FR 16125 (3/11/81)	Do.
81-25	Generic name: Derivatized copolymer of acrylic acid and *N*-(1,1-dimethyl-3-substituted butyl) acrylamide.	46 FR 16118 (3/11/81)	Do.
81-26	Generic name: Polyfluorohydro-carbon-methacrylic copolymer	46 FR 14952 (3/3/81)	Do.
81-27	Generic name: Alkyd resin 342-45	46 FR 16118 (3/11/81)	Do.
81-28	Generic name: Alkyd resin 343-42	46 FR 16118 (3/11/81)	Do.
81-29	Generic name: Reaction product olefins, vegetable oil, and sulfur	46 FR 16118 (3/11/81)	Apr. 22, 1981.
81-30	Generic name: Polyester resin derived from a mixture of phthalic acids with alkylene glycols and lighter polyols.	46 FR 16118 (3/11/81)	Do.
81-31	Generic name: Polyurethane polyacrylic block polymer	46 FR 14952 (3/3/81)	Do.
81-32	Generic name: (Substituted phenoxy) alkanoic acid	46 FR 16118 (3/11/81)	Do.
81-33	Generic name: Tetrahydro-acridinone	46 FR 14952 (3/3/81)	Apr. 26, 1981.
81-34	Generic name: Acridinone	46 FR 14952 (3/3/81)	Do.
81-35	Generic name: *N*-Methylene phosphonic acids of a complex substituted amine mixture (a forecut from the fractionation of a crude carboheterocycle) consisting principally of 2, 2'-substituted *bis* ethyl amine.	46 FR 16118 (3/11/81)	Apr. 19, 1981.
81-36	Alkyl acid phosphorous esters	46 FR 16118 (3/11/81)	Apr. 28, 1981.
81-38	Bicylo[3,2,1]octan-8-ol, 1,5-dimethyl-, acetate bicylo[3,3,0]-octan-2-ol, 1,5-dimethyl-,acetate bicylo[3,3,1]nonan-1-ol, 5-methyl-, acetate,.	46 FR 16123 (3/11/81)	Do.
81-41	5-Methyl-4*H*-1,2,4-triazole-3-selenol 1,2-dihydro-5-methyl-3*H*-1,2,4-triazole-3-selone	46 FR 16123 (3/11,81)	Apr. 30, 1981.
81-42	Generic name: (Substituted-phenoxy)alkanoic acid, alkyl ester	46 FR 15944 (3/10/81)	Do.
81-43	Generic name: (Chromophore substituted poly(oxypropylene)	46 FR 16123 (3/11/81)	Do.

III. Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory.)

80-313	2-Chloro-2-sulfopropionic acid	45 FR 83662 (12/19/80)	Feb. 2, 1981.
80-314	2,4-Bis[(4-(*N*-cyano-*N*-phenylsul-fonylamino)phenyl)methyl]-*N*-cyano-*N*-phenylsulfonylbenzenamine; 4,4'-methylenebis(*N*-cyano-*N*-phenylsul-fonylbenzenamine; 4,4'-methylenebis[2-[(4-(*N*-cyano-*N*-phenylsulfonylamino)phenyl)-methyl)-*N*-cyano-*N*-phenylsulfonylbenzenamine].	45 FR 85151 (12/24/80)	Feb. 1, 1981.
80-315	4,4' -Methylenebis(*N*-cyanobenzenamine); 2,4-bis[(4-(*N*--cyanoamino)phenyl)methyl]-*N*-cyanobenzenamine; 4,4'-methylenebis [2-[(4-*N*-cyanoamino)phenyl)methyl]-*N*-cyanobenzenamine].	45 FR 85151 (12/24/80)	Do.
80-316	Generic name: Dialkyltin-dinoleate	45 FR 83020 (12/17/80)	Feb. 2, 1981.
80-317	Generic name: Polymer of modified resin esters and mixed oils	45 FR 83023 (12/17/80)	Feb. 3, 1981.
80-318	Dimethyl diallyl ammonium chloride-acrylamide-potassium acrylate terpolymer	45 FR 83664 (12/19/80)	Feb. 5, 1981.
80-319	Generic name: Salt form of acrylic acid-acrylate copolymer	45 FR 83661 (12/19/80)	Do.
80-320	Vanadic acid, tris(2-methylpropyl) ester	45 FR 83019 (12/17/80)	Do.
80-321	Generic name: Polymer of an alkyl acrylate, an alkyl methacrylate, and a saturated cyclic methacrylate.	45 FR 82708 (12/17/80)	Feb. 10, 1981.
80-322	Generic name: Polymer of epoxidized soybean oil benzoic acid	45 FR 83021 (12/17/80)	Do.
80-323	Generic name: Acrylic emulsion	45 FR 83662 (12/19/80)	Do.
80-324	Generic name: Poly (allyl ether) hydroxy alkyl ester	45 FR 82706 (12/16/80)	Feb. 11, 1981.
80-325	Generic name: Chromophore substituted poly (oxyethylene)	45 FR 82706 (12/16/80)	Feb. 15, 1981.
80-326	Generic name: Chromophore substituted poly (Oxyethylene)	45 FR 82706 (12/16/80)	Do.
80-327	Generic name: Toluene disocyanate blocked prepolymer	45 FR 83020 (12/17/80)	Do.
80-328	Generic name: Unsaturated melamine formaldehyde methanol resin	45 FR 83019 (12/17/80)	Feb. 16, 1981.
80-329	Generic name: Salt of fatty acid dimer	45 FR 83022 (12/17/80)	Do.

Premanufacture Notices Monthly Status Report, February 1981—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
80-330	Amino Alcohol	45 FR 3963 (1/16/80)	Feb. 18, 1981.
80-331	Methacrylic fatty acid adduct	46 FR 11347 (2/6/81)	Feb. 19, 1981.
80-332	Soya fatty ester	46 FR 11347 (2/6/81)	Feb. 22, 1981
80-333	Polymer of: Substituted alkanediol, alkanedioic acid, and alkenedioic acid	46 FR 8711 (1/27/81)	Do.
80-334	Polymer of: Alkanediol, alkanedioic acid, and alkenedioic acid	46 FR 8711 (1/27/81)	Do.
80-335	Polymer of: Substituted alkanediol, alkanedioic acid, and alkanedioic acids	46 FR 8711 (1/27/81)	Do.
80-336	1,2,4-Substituted anthraquinone	46 FR 8710 (1/27/81)	Do.
80-337	Acrylamid-methacrylic copolymer	46 FR 1022 (1/5/81)	Feb. 23, 1981.
80-338	Salt form of acrylic acid-acrylate copolymer	46 FR 1022 (1/5/81)	Feb. 22, 1981.
80-339	Salt form of acrylic acid-acrylate copolymer	46 FR 1022 (1/5/81)	Do.
80-340	Polymer diol, monocarboxylic acid diol, diamine, and a diisocyanate	46 FR 3963 (1/16/81)	Feb. 24, 1981.

PMN No.	Manufacture	Chemical identity	FR citation
80-119	CBI	Generic name: 2-(di(dimethyl, substituted carbomonocyclic alkyl)(methyl, carboxy substituted)benzene, (methyl substituted)ethyl ester.	45 FR 42012 (9/27/80).
80-121	CBI	1-Substituted-3,5-dimethyl-4-substituted benzene	45 FR 42012 (9/27/80).
80-122	CBI	2-(di-(3,5-dimethyl-4-substituted phenyl) hydroxy alkyl)-(methyl); carboxy-substituted benzene, (methyl substituted)ethyl ester.	45 FR 42012 (9/27/80).
80-123	CBI	2-(di-(3,5-dimethyl-4-substituted phenyl) hydroxy-alkyl)-methylsubstituted benzene.	45 FR 42012 (9/27/80).
80-162	CBI	Lignosulfonate reaction product with an alkenoic acid and an organic salt.	45 FR 51274 (8/1/80).
80-212	CBI	Adduct of poly tetra methylene glycol, aliphatic poly glycol aliphatic diisocyanate and an alkyl diisocyanate.	45 FR 60008 (9/11/80).
80-273	Sybron Corp	Amines, C_{16-18} alkyldimethyl, phosphate salt, phosphoric acid, C_{16-18} alkyldimethyl amines salt.	45 FR 73128 (11/4/80).
80-289	Air Product Chemicals	Amines, isopropyl distillation residues	45 FR 75750 (11/17/80).
80-290	do	Amines, ethyl distillation residues	45 FR 75750 (11/17/80).
80-301	CBI	Cyclohexane, 1,1'methylene bis[4-isocyanato-, reaction products with 1,3-isobenzofurandione, polymer with 1,6-hexanediol, alpha-hydro-omega hydroxypolyoxy [1,4-butanediyl]. and (2-hydroxyethyl)-2-propenoate.	45 FR 79152 (11/28/80).
80-307	CBI	Polymer of tall oil fatty acids, neopentyl glycol, trimethylol ethane, phthalic anhydride.	45 FR 81651 (12/11/80).
80-320	Stauffer Chemical Co	Vanadic acid, tris(methyl propyl) ester	45 FR 83018 (12/17/80).
80-336	CBI	1,2,4-Substituted anthraquinone	46 FR 8710 (1/27/81).

[FR Doc. 81-9454 Filed 3-27-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51241; TSH-FRL 1792-1]

Certain Chemicals; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of three PMN's and provides a summary of each.

DATE: Written comments by:
PMN 81-87—April 19, 1981.
PMN 81-96—April 27, 1981.
PMN 81-97—May 1, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room no.
81-87	Kirk Maconaughey	202-426-3936	E-210.
81-96	Rick Green	202-426-8816	E-208.
81-97	George Bagley	202-426-3936	E-210.

Mail address of notice managers: Chemical Control Division (TS-794), Office of toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 20604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Initial Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2), EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data

submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN is published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, D.C. 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51241]" and the specific PMN number. Comments received may be seen in Rm. E-106 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: March 24, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 81-87

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 19, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Annual sales—$500 million and up.

Manufacturing site—South Atlantic U.S.

Standard Industrial Classification Code—2821.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyurethane-acrylate blocked.

Use. The manufacturer states that the PMN substance will be used in an industrial use as floor coatings.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Vapor pressure at 25°C—$0\text{-}1^{-3}$ torr.

Density—>1.0 g/cc.

Solubility at 25°C in toluene—>10 g/lb.

Freezing point—>0.°C.

Toxicity Data

Acute dermal toxicity (male and female albino rabbits)—>2.0 g/kg.

Acute oral toxicity (male and female rats)—>5.0 g/kg.

Primary skin irritation (albino rabbits)—Slightly irritating.

Eye irritation (albino rabbits)—Minimally irritating without washout.

Exposure. The manufacturer states that during manufacture, four workers could have skin exposure for 1 hr/da, 16 da/yr, at a peak concentration of 0 to 1 ppm during discharge from reactor to drum. Because manufacture is in a closed system, exposure would be minimal.

Eight commercial users of the new chemical could have weekly skin exposure when it is used as floor coating. *Environmental Release/Disposal.* The manufacturer states that none of the new chemical will be released into the environment.

PMN 81-96

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 27, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Oxidized soy isolate.

Use. Claimed confidential business information. Generic use information provided: The submitter states that the PMN substance will be used in an open use that will release more than 50 but less than 5,000 kg per year into environment with potential skin exposure to non-chemical industrial employees and to consumers as part of an article.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. Claimed confidential business information. The manufacturer states however, that the new substance is not a primary eye or skin irritant, is non-toxic by oral administration and that all components of oxidized soy isolate are approved for food additives.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

PMN 81-97

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 31, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Bis(substituted carbomonocyclic) substituted carbopolycycle.

Use. The manufacturer states that the PMN substance will be used as a company-limited chemical intermediate.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	400	700
2d year	400	700

Production Estimates—Continued

	Kilograms per year	
	Minimum	Maximum
3d year	400	700

Physical/Chemical Properties

Melting point—>300°C.
Solubilities:
Distilled water—Approx. 0.001
DMSO—>1.0
Acetone—<0.1
Corn oil—<0.1
Octanol—<0.1

Environmental Test Data

TOD—1.86 g/g.
COD—1.95 g/g.
BOD_5—0.025 g/g.
BOD_{30}—0.035g/g.

Secondary waste treatment—A solution of 300 ppm did not affect microbiological carbon metabolism.

Acute effects on four aquatic species—A solution of 100 ppm showed no effect on four aquatic species.

Toxicity Data

Acute oral LD_{50}—>3,000 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin irritation—Slight.
Eye irritation—Slight.
Skin sensitization potential—None.

Repeated 10-day skin application—Little or no exacerbation.

Repeated 2-week feeding study (rats) 0.1% and 1.0% in diet—No significant effects.

Exposure

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (mg/m³)	
		hour/day	day/year	Average	Peak
Manufacture: Skin and inhalation	8	2.0	1.5	0-1	0-1
Processing: Skin	4	0.5	5.0	0-1	0-1

Exposure will occur during manual and mechanical transfer operations.

Environmental Release/Disposal. The manufacturer states that a negligible amount of the new chemical will be released into the air and none into the land and water. Liquid and solid wastes containing combustible chemicals are incinerated; emissions of vapors and dust are passed through a scrubber before release into the atmosphere.

[FR Doc. 81-9455 Filed 3-27-81; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-51236; (TSH-FRL 1791-5)]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after reciept. This Notice announces receipt of three PMN's and provides a summary of each.

DATES: Written comments by: PMN 81—72—April 14, 1981. PMN 81—75, 81—76—April 19, 1981.

ADDRESS: Written comments to: Document Control Officer (TX-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager and telephone	Room No.
81-72	Mary Cusmac (202-755-9315)	E-229
81-75, 81-76	Rick Green (202-426-8816)	E-208

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the *Federal Register* nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and saftey studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review

period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51236]" and the specific PMN number. Comments received may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: March 24, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 81-72

The following information is taken from data submitted by the importer in the PMN.

Close of Review Period. May 14, 1981.

Importer's Identity. Claimed confidential business information.

Specific Chemical Identity. 2-(2-Chloro-6-cyano-4-nitrophenylazo)-5-[di(*n*-pentyl)amino] acetoanilide.

Use. The importer states that the PMN substance will be used in an industrial use as dyestuffs.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Dark green powder.
Melting point—158-160° C.
Solubilities:
Water—Insoluble.
N-Hexane—0.02 (g/100g Solvent).
Methanol—0.04 (g/100g Solvent).
Acetone—0.94 (g/100g Solvent).
Chloroform—25.1 (g/100g Solvent).

Toxicity Data

Acute oral toxicity LD_{50} (mice)—>5,000 mg/kg.

Eye and skin irritation (rabbits)—Non-irritating.

Exposure. The importer states that workers using the PMN substance could have skin and inhalation exposure during weighing and dispersing of the chemical substance, disposal, and during accidental spills.

Environmental Release/Disposal. No data were submitted.

PMN 81-75

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 19, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Annual sales—Between $10 million and $99,999,999.

Manufacturing site—West-North Central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identify. 2,2,4-Trimethyl-1,3-pentanediol, 1,6-hexanediol, isophthalic acid, terephthalic acid, and dibutyltin oxide.

Use. The manufacturer states that the PMN substance will be used in a commercial use as a high solids baking enamel.

Production Estimates

	Pounds per year	
	Minimum	Maximum
1st year	250,000	375,000
2nd year	400,000	550,000
3d year	600,000	750,000

Physical/Chemical Properties

Molecular weight—1,000-2,000.
Non-volatile—99±1.
Viscosity—Z6 Hy.
Acid number—10 maximum.
Color—6 maximum.
Weight/gallon—9.00 lbs.
Solvent—None.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that at a site controlled by the submitter, 2-3 workers in manufacturing, processing, using, and disposing of the new substance could have inhalation exposure 1-8 hr/da, 251 da/yr, at a peak concentration of 1-10 ppm. Exposure could occur during transfer and when the pigment and the cross-linking agent are being incorporated.

At a site not controlled by the submitter, workers using the PMN chemical could have inhalation exposure 8 hr/da, 251 da/yr, at a peak concentration of 1-10 ppm during application by spray painting or roller coating.

Environmental Release/Disposal. The manufacturer states that at a site controlled by the submitter, less than 10 kg/yr of the new chemical will be released into the air 1 hr/day, 251 da/yr.

At a site not controlled by the submitter, less than 10 kg/yr will be released into the air, and from 10 to 100 kg/yr will be released into the water 8 hr/da, 251 da/yr.

PMN 81-76

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 19, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Annual sales—Between $10 million and $99,999,999.

Manufacturing site—West-North Central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Soya bean oil and polymer of bisphenol A, *p*-tert-butylphenol, formaldehyde.

Use. The manufacturer states that the PMN substance will be used in a commercial use as a baking varnish.

Production Estimates.

	Pounds per year	
	Minimum	Maximum
1st year	240,000	400,000
2nd year	400,000	560,000
3d year	480,000	800,000

Physical/Chemical Properties

Non-volatile—88±1.
Viscosity—W-X.
Acid number—48-52.
Color—3-4.
Weight/gallon—8.04 lbs.
Solvent:
Aromatic solvent SC #100—50%.
n-Butanol—50%.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that at a site controlled by the submitter, five workers manufacturing, processing, using, and disposing of the new chemical could have inhalation exposure 1-4 hr/da, 251 da/yr, at a peak concentration of 1-10 ppm. Exposure could occur when the material is being

transferred and when paint additives, solvent, driers are added.

At a site not controlled by the submitter, users of the new chemical could have inhalation exposure during application of the wet varnish.

Environmental Release/Disposal. The manufacturer states that at a site controlled by the submitter, less than 10 kg/yr of the new substance will be released into the air 1 hr/da, 251 da/yr.

At a site not controlled by the submitter, less than 20 kg/yr will be released into the air and water 8 hr/day, 251 da/yr.

[FR Doc. 81-9451 Filed 3-27-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51238; TSH-FRL 1791-7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of ten PMN's and provides a summary of each.

DATES: Written comments by:

PMN 81-73, 81-74, 81-77, 81-78, 81-80, 81-81, 81-84, 81-85, 81-86; April 14, 1981.

PMN 81-83; April 19, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT: George Bagley, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St., SW., Washington, DC 20460, (202-426-3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "Dates", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51238]" and the specific PMN number. Comments received may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: March 24, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 81-73

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: *N*-Tetrasubstitutedphenyl) acetamide.

Use. The manufacturer states that the PMN substance is a site-limited chemical intermediate for use in the manufacture of another chemical intermediate. The final chemical will be

a minor constituent of an article for commercial and consumer use.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	100,000
2d year	5,000	100,000
3d year	None	None

Physical/Chemical Properties

Melting point—122° C.
Solubilities:
Water—< 0.1%.
DMSO—> 10.0%.
Acetone—> 10.0%.
Corn oil—< 0.1%.
Octanol—> 0.1%.

Environmental Test Data

Chemical oxygen demand (COD)—1.27 g/g.
Secondary waste treatment—The 50% inhibition concentration for glucose metabolism was 8 ppm.
Acute effects on 5 aquatic species, 96-hour LC_{50}, (minnows, Diaphnids, *Helisoma* snails, flatworms, and sideswimmers)—12.8 ppm for each species.
Acceptable water concentration guideline adopted for single or intermittent discharge of compound—0.8 ppm.

Toxicity data

Acute oral LD_{50} (rats)—> 3,000 mg/kg.
Acute dermal LD_{50}—> 1,000 mg/kg.
Skin irritation—Slight.
Repeated 10-day skin application—Moderately exacerbated the irritative response.
Skin sensitization potential—Moderate.
Eye irritation—Moderate.
Repeated 2-week feeding study (rats) 0.1% and 1.0% in diet—No significant changes.

Activity	Exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (mg/m³)	
			Hour/day	Day/year	Average	Peak
Manufacture	Skin inhalation	20	1	80	1-10	1-100
Use	Skin inhalation	20	0.5	40	0-1	1-10

Environmental Release/Disposal. The manufacturer states that there will be less than 10 kg/yr of the new substance released into the water, a negligible amount into the air, and one into the land. A small amount lost during manufacturer will be sent to a secondary waste treatment facility; wastes containing the unreacted chemical will be incinerated.

PMN 81-74

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Tetrasubstitutedphenol.

Use. The manufacturer states that the PMN substance is a site-limited chemical intermediate for use in the manufacture of another chemical intermediate. The final chemical will be a minor constitutent in an article of commercial and consumer use.

Production Estimates

	Kilogram per year	
	Minimum	Maximum
1st year	5,000	100,000
2d year	50,000	200,000
3d year	100,000	200,000

Physical/Chemical Properties

Melting point—39°C.
Solubilities:
Water—>0.1%.
DMSO—>10.0%.
Acetone—>10.0%.
Corn oil—<0.1%.
Octanol—>1.0%.

Toxicity Data

Acute oral LD_{50}—400-400 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin irritation—Moderate.
Eye irritation—Strong; washing is palliative.
Skin sensitization potential—Low.
Repeated 10-day skin application—Moderate exacerbation of irritative response.
Ames *Salmonella* mutagenicity assay with and without metabolic activity—Negative.

Exposure

Activity	Exposure routes(s)	Maximum number exposed	Maximum duration		Concentrations/ mg/m³	
			Hour/da	Day/yr	Average	Peak
Manufacture	Skin inhalation	50	1.0	20	0-1	1-10
Use	Skin inhalation	25	0.75	20	0-1	1-10

Environmental Release/Disposal. The manufacturer states that none of the new chemical will be released into the land, less than 10kg/yr into the air, and from 0 to 100 kg/yr into the water. Liquid and solid wastes will be incinerated.

PMN 81-77

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Tetrasubstitutedphenol.

Use. The manufacturer states that the PMN substance is a site-limited chemical intermediate for use in the manufacture of another chemical

intermediate. The final chemical will be a minor constituent in an article for commercial and consumer use.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	100,000
2d year	100,000	300,000
3d year	100,000	300,000

Physical/Chemical Properties

Solubilities:
Water—<0.1%.
DMSO—>10.0%.
Acetone—>10.0%.
Corn oil—>10.0%.
Octanol—>10.0%.
Boiling point—278°C.

Toxicity Data

Acute oral LD_{50}—1,300–1,400 mg/kg.
Acute dermal LD_{50}—>20 ml/kg.
Skin irritation—Moderate.
Eye irritation—Slight.
Skin sensitization potential—None.
Repeated 10-day skin application—Strong irritation.
Skin absorption—Evident.

Exposure

Activity	Exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (ppm)	
			Hour/day	Day/year	Average	Peak
Manufacture	Skin inhalation	50	0.5	20	1–10	1–10
Use	Skin inhalation	40	1.0	20	1–10	1–10

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the PMN substance will be released into the air, and none into land or water. Solid and liquid wastes will be incinerated.

PMN 81-78

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Tetrasubstitutedphenol.

Use. The manufacturer states that the new chemical will be incorporated into a commercial and consumer article. The new chemical will be a minor constituent of the article.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	100,000
2d year	50,000	200,000
3d year	100,000	250,000

Physical/Chemical Properties

Solubilities:
Water—<0.0002
DMSO—>10.0
Acetone—>10.0
Corn oil—<0.1
Octanol—>0.1
Melting point—143°C.

Environmental Test Data

COD—2.03 g/g
Secondary waste treatment compatibility study—A saturated solution of 500 ppb (measured concentration) did not affect microbiological carbon metabolism.
Acute effects on 6 aquatic species: fathead minnows, Daphnids, *Helisoma* snails, flatworms, asellus, and side-swimmers—No effects at <500 ppb solution concentration.
Germination effects (radish, ryegrass, lettuce)—No effects at <500 ppb solution concentration.

Toxicity Data

Acute oral LD_{50} (rats)—>3,000 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin irritation—Slight.
Repeated 10-day skin application—No irritation or exacerbation.
Skin sensitization potential—None.
Eye irritation—Slight.
Repeated 2-week feeding study (rats) 0.1% and 1.0% in diet—No effects.

Exposure

Activity	Exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (gm/m³)	
			Hour/day	Days/year	Average	Peak
Manufacture	Skin inhalation	20	1.5	80	1-10	1-10
Processing	Skin inhalation	50	4	80	0-1	0-1

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the PMN substance will be released into the air; less than 200 kg/yr will be released into water; and none into land. Disposal will be by incineration.

PMN 81-80

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Trisubstituted benzenamine.

Use. The manufacturer states that the PMN substance is a site-limited chemical intermediate for use in the manufacture of another intermediate. The final chemical will be a minor constituent in an article for commercial and consumer use.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	150,000
2d year	5,000	150,000
3d year	0	0

Physical/Chemical Properties

Solubilities:
- Water—<0.1%.
- DMSO—>10.0%.
- Acetone—>10.0%.
- Corn oil—<0.1%.
- Octanol—<0.1%.
- Melting point—86°C.

Environmental Test Data

COD—2.6 g/g.

Secondary waste treatment compatibility study (20,000 ppm saturated solution)—31% decrease in microbial carbon metabolism.

Acute effects (96-hour LC_{50}) (fathead minnows, Daphnids, *Helisoma* snails, flatworms, pill bugs, sideswimmers)—14.2 ppm (minnows), 7.9 ppm (Daphnids), 7.9 ppm (sideswimmers), 14.2 ppm (*Helisoma* snails).

Toxicity Data

Acute oral LD_{50}—1,300-2,000 mg/kg.

Acute dermal LD_{50}—>1,000 mg/kg.

Skin irritation—Slight.

Repeated 10-day skin application—Moderate irritation.

Skin sensitization potential—Low.

Eye irritation—Slight.

Methemoglomin (1,000 mg/kg oral dose, rats)—(3/3) had 60% methemoglobinemia in 2 and 4 hours.

Ames *Salmonella* assay—Weakly positive.

Exposure

Activity	Exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (mg/m³)	
			Hour/day	Days/year	Average	Peak
Manufacture	Skin inhalation	20	1	120	1-10	10-100
Use	Skin inhalation	20	0.5	80	0-1	1-10

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the PMN substance will be released to the air; none will be released to land or water. All waste will be incinerated.

PMN 81-81

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Tetrasubstitutedphenol. *Use.* The manufacturer states that the PMN substance is a site-limited chemical intermediate for use in the manufacture of another chemical intermediate. The final chemical will be a minor constituent in an article for commercial and consumer use.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	3,000	100,000
2d year	3,000	200,000
3d year	0	200,000

Physical/Chemical Properties

Solubilities:
- Water—<0.1%.
- DMSO—>10.0%.
- Acetone—>10.0%.
- Corn oil—<0.1%.
- Octanol—>0.1%.
- Melting point—Decoposes above 60° C.

Environmental Test Data

COD—1.06 g/g.

Secondary waste treatment compatibility study—The 50% effect concentration on glucose metabolism was 18 ppm.

Acute effects (96-hour LC_{50}) (minnows, Daphnids, scuds, *Helisoma* snails, flatworms)—15. ppm (minnows), 0.3 ppm (Daphnids), 7 ppm (scuds), 10.5 ppm (*Helisoma* snails), 2.2 ppm (flatworms).

Toxicity Data

Acute oral LD_{50} (rats)—1,600-2,600 mg/kg.

Acute dermal LD_{50}>1,000 mg/kg.

Skin absorption—Evident.

Skin irritation—Moderate.

Repeated 12 day skin application—Moderate exacerbation with hard, cracked eschars.

Skin sensitization potential—Low.

Eye irritation—Moderate to strong.

Repeated 2-week feeding study (0.1% and 1% in diet)—Weight gain: Normal; Hematology: Normal; Clinical Chemistry: Normal; Necropsy: Normal organ weights; Pathology: Minimal to mild hyperkeratosis in 5/5 animals in the high dose group; Target organ: Contact tissue (stomach). No effect dose—0.1%.

Ames *Salmonella* mutagenicity assay with and without metabolic activitation—Negative.

Exposure

Activity	Exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (mg/m³)	
			Hour/day	Days/year	Average	Peak
Manufacture	Skin inhalation	20	1	40	1–10	1–10
Use	Skin inhalation	20	0.5	40	0–1	1–10

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the PMN substance will be released into the air; none will be released into land or water. Disposal will be by incineration.

PMN 81–83

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 19, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Copolyester of dibasic aliphatic and substituted dibasic aromatic carboxylic acids with glycols.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Physical form—Solid (will be marketed as a solution in water).
Solubility—10% in water (80°C).
Acid number—10.
Saponification value—450–550 mg KOH/g.
Hydroxyl number—30–50 mg KOH/g.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that at a site controlled by the submitter two workers per shift will be exposed to the PMN substance 400 man-hours per year while loading the new chemical into equipment.

At customer sites, 30 workers would be exposed from 1 to 2 hr/da, 208 da/yr, during application.

Environmental Release/Disposal. No data were submitted. The manufacturer states that at sites not controlled by the submitter closed systems will limit release into the environment, that none of the new chemical will be released into the air, and that water used in processing is released to the sewer.

PMN 81–84

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Tetrasubstitutedphenol.

Use. The manufacturer states that the PMN substance will be used as an industrial chemical intermediate to produce a final chemical. The final chemical will be incorporated into an article for commercial and consumer use and will contain essentially none of the PMN substance.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	100,000
2d year	50,000	200,000
3d year	100,000	200,000

Physical/Chemical Properties. No data were submitted.

Environmental Test Data.
COD—1.06 g/g.
Secondary waste treatment compatibility study (50% effect concentration on glucose metabolism)—18 ppm.
Acute effects (96-hour LC_{50} values) on 5 aquatic species (minnows, Daphnids, scuds, *Helisoma* snails, flatworms)—1.5 ppm (minnows), 0.3 ppm (Daphnids), 7.0 ppm (scude), 10.5 ppm (*Helisoma* snails), 2.2 (flatworms).

Toxicity Data

Acute oral LD_{50}—1,600–2,600 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin absorption—Evident.
Skin irritation—Moderate.
Repeated 12 day skin application—Moderate exacerbation with hard, cracked eschars.
Skin sensitization potential—Low.
Eye irritation—Moderate to strong.
Repeated 2-week feeding study 0.1% and 1% in diet—Weight gain: Normal; Hematology: Normal; Clinical Chemistry: Normal; Necropsy: Normal organ weights; Pathology: Minimal to mild hyperkeratosis in 5/5 animals in the high-dose group; Target organ: Contact tissue (stomach). No effect dose—0.1%.
Ames *Salmonella* mutagenicity assay with and without metabolic activation—Negative.

Exposure

Activity	Exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (mg/m³)	
			Hour/day	Days/year	Average	Peak
Manufacture	Skin inhalation	100	2	20	1–10	10–100
Use	Skin inhalation	20	.5	80	0–1	1–10

Environmental Release/Disposal. The manufacturer states that none of the PMN substance would be released to the land and that less than 10 kg/yr would be released to the air and water. Disposal will be by incineration.

PMN 81–85

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Generic name provided: Trisubstitutedphenol.

Use. Claimed confidential business information. Generic use description provided: The manufacturer states that the PMN substance is a site-limited chemical intermediate for use in the manufacture of another chemical intermediate. The final chemical will be a minor constituent of an article for commercial and consumer use.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	100,000
2d year	50,000	200,000
3d year	100,000	200,000

Physical/Chemical Properties

Solubilities:
Water—<0.1%.
DMSO—>10.0%.
Acetone—>10.0%.
Corn oil—>1.0%.
Octanol—>10.0%.
Melting point—32°C.

Toxicity Data

Acute oral LD_{50}—1,600–2,200 mg/kg.
Acute dermal LD_{50}—<500 mg/kg.
Skin irritation—Strong.

Eye irritation—Strong (washing is palliative).
Skin sensitization potential—None.
Ames Salmonella mutagenicity assay—Negative.

Exposure

Activity	Exposure Route(s)	Maximum number exposed	Maximum duration		Concentrations (ppm)	
			Hour/date	Days/year	Average	Peak
Manufacture	Skin inhalation	75	1	20	1-10	1-10
Use	Skin inhalation	25	.75	20	1-10	1-10

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the PMN substance will be released into the air, and none into the land and water. Disposal will be by incineration.

PMN 81-86

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 14, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Disubstituted benzenamine hydrochloride.

Use. The manufacturer states that the PMN substance is a site-limited chemical intermediate for use in the manufacture of another intermediate. The final chemical will be a minor constituent in an article for commercial and consumer use.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	4,000	80,000
2d year	4,000	80,000
3d year	0	0

Physical/Chemical Properties

Solubilities:
Water—>0.1
DMSO—>10.0
Acetone—>10.0
Corn oil—<0.1
Octanol—>1.0
Melting Point—162° C.

Environmental Test Data

COD—1.81 g/g.
TOD—1.83 g/g.
BOD_5—0.09 g/g (at 50 ppm).
BOD_{20}—0.09 g/g (at 50 ppm).
Secondary waste treatment compatibility study—The 50% inhibition concentration for glucose metabolism was 11.5 ppm.
Acute effect (96-hour LC_{50}) (flathead minnows, Daphnias, *Helisoma* snails, flatworms, pill bugs, and sideswimmers)—0.32 ppm (minnows), 1.8 ppm (Daphnids), 1.0 ppm (sideswimmers), .32 ppm (flat worms), 32 ppm (Helisome snails), 32 ppm (pill bugs).

Toxicity Data

Acute oral LD_{50} (rats)—1,300-2,300 mg/kg.
Acute dermal LD_{50}—>1,000 mg/kg.
Skin irritation—Slight.
Repeated 10-day skin Application—Strongly exacerbated the irritative response.
Skin sensitization potential—None.
Eye irritation—Strong-washing promptly was palliative.
Repeated 2-week feeding study (rats) 0.1% and 1% in diet—Weight gain: Normal; Hematology: Normal except for a slight decrease in Hgb. in the low-dose group. Clinical chemistry: Normal except for a slight decrease in GPT in the high-dose group; Necropsy: Normal organ weights except for a slight increase in relative liver and kidney weights in the high-dose group; Pathology: Slightly dark and enlarged spleens in the high-dose group and some discoloration of the skin in both groups. Splenic congestion was seen in both groups; Target organ: None identified.

Exposure

Activity	Exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (mg/m³)	
			Hour/day	Days/year	Average	Peak
Manufacture	Skin inhalation	20	1	80	1-10	10-100
Use	Skin inhalation	20	0.5	80	0-1	1-10

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the PMN substance will be released into the air; none will be released into land or water. Disposal will be by incineration.

[FR Doc. 81-9453 Filed 3-27-81; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-51239; TSH-FRL 1791-4]

Certain Chemicals; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of three PMN's and provides a summary of each.

DATES: Written comments by:
PMN 81-79, 81-82—April 19, 1981.
PMN 81-88—April 20, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-79	Kirk Maconaughey	(202-426-3936)	E-210
81-82	Rachel Dismond	(202-426-3980)	E-221
81-88	David Dull	(202-755-9315)	E-229

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 20604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Initial Inventory were published in the **Federal**

Register of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2), EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN is published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51239]" and the specific PMN number. Comments received may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: March 24, 1981.

Edward A. Klein,
Director, Chemical Control Division.

PMN 81-79

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 19, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Manufacturing site—Middle Atlantic U.S.

Standard Industrial Classification Code—285; e.

Specific Chemical Indentity. Claimed confidential business information. Generic name provided: Polyurethane from substituted alkanols and an aromatic diisocyanate.

Use. Claimed confidential business information. Generic use information provided: The submitter states that the PMN substance will be used in an open use that will release more than 50 but less than 5,000 kg per year into the environment with potential skin and eye exposure to both chemical and non-chemical industry employees and essentially no consumer contact.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	60,000	120,000
2d year	180,000	360,000
3d year	360,000	720,000

PMN 81-82

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 19, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Manufacturing site—Middle Atlantic U.S.

Standard Industrial Classification Code—285; e.

Specific Chemcial Identity. Claimed confidential business information. Generic name provided: Neutralized polymer of styrene, acrylic acid, alkyl acrylate, and alkyl methacrylate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use that will release more than 50 but less than 5,000 kg per year into the environment with potential skin and eye exposure to both chemical and non-chemical industry employees and to consumers as part of an article.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	145,000	290,000
2d year	230,000	460,000
3d year	360,000	720,000

Physical/Chemcical Properties

% Total solids—70 (by weight).

Viscosity (on solution at solids shown)—X.

Flash point—69°F.

Toxicity Data. No data were submitted.

Exposure

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentration	
		Hour/day	Day/year	Average	Peak
Manufacture: Skin and eye	77	6	10-34		
Processing: Skin and eye	139	6	38-60		
Use: Skin and eye	12	8	250		

Environmental Release/Disposal

The manufacturer states during manufacture and processing of the substance, less than 100 kg/yr may be released to air and water and from 1,040–10,400 kg/yr to land.

In a typical users' site, less than 20 kg/yr may be released to air and land and 10–100 kg/yr to water.

Physical/Chemical Properties

Total solids—37.7%.

Milliequivalents acid—0.534 MEQ acid/g.

Milliequivalents base—0.434 MEQ base/g.

ph—7.6

Viscosity—1,700 cps.

Density—8.48 lb/gal.

Flash point—130° F.

(Values at 37.7% total solids.)

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that at 2 manufacturing sites, 77 manufacturing workers could have skin and eye exposure to the new chemical for 6 hr/da, 10 to 89 da/yr, and that at 2 processing sites, workers could have skin and eye exposure from 6 to 14 hr/da, 50 to 83 da/yr. Exposure could occur during filling of the processing vessel, extracting samples for quality control, cleaning, and filling shipping and storage containers.

At the site of a typical user, three owrkers could have skin and eye exposure for 0.5 hr/da, 240 da/yr.

Environmental Release/disposal. The manufacturer states that at both the manufacturing and processing sites, less than 80 kg/yr of the PMN substance will be released into the air and water and from less than 10 to 1,200 kg/yr to land.

Vapors are cleaned by scrubbers, particulate emissions are controlled baghouses, and sludge and other organic wastes are landfilled, sold as fuel, or incinerated.

At the site of a typical user, less than 20 kg/yr will be released into the air and water; from 10 to 100 kg/yr will be released into the land.

PMN 81-88

The following information is taken from data submitted by the manufacturer in the PMN.

close of Review Period. May 20, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted transition metal oxide.

Use. Claimed confidential business information. Generic use description provided: Energy converted.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted. The manufacturer states that the PMN substance will not be hazardous to manufacturin workers, consumers, or the environment.

Exposure

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (ppm)	
		Hour/day	Day/year	Average	Peak
Manufacture: Inhalation and skin	2	1	100	5	10
Processing: Inhalation, skin	2	1	25	5	10
Disposal: Inhalation, skin	1	2	25	5	10

Environmental Release/Disposal. The manufacturer states that there will be no release of the PMN substance to the environment during manufacture and processing. When no longer useful, the final article containing the PMN substance will be disposed by incineration or landfill.

[FR Doc. 81-9450 Filed 3-27-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51240; TSH-FRL 1791-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of six PMN's and provides a summary of each.

DATES: Written comments by:

PMN 81-90, 81-91—April 21, 1981.

PMN 81-92—April 19, 1981.

PMN 81-93, 81-94, 81-95—April 27, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager and telephone	Room No.
81-90	George Bagley (202-426-3936)	E-210
81-91	Rachel Diamond (202-426-3980)	E-221
81-92	Wendy Cleland-Hamnett (202-755-9315).	E-229
81-93	Kirk Maconaughey (202-426-3936).	E-210
81-94, 81-95	Mary Cushmac (202-755-9315)	E-229

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10,

1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will published the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51240]" and the specific PMN number. Comments received may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: March 24, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 81-90.

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 21, 1981.

Manufacturer's Identity. W. R. Grace and Co., 55 Hayden Avenue, Lexington, MA 02173.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Oxime blocked polyurethane prepolymer, water borne.

Use. The manufacturer states that use data is not known but that possible uses for the PMN substance are as pulp additive in paper formation, coating vehicle for paper, aid in dyeing polypropylene fabric, and emulsifier/coreactant in latex manufacture.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Non-volatiles—35%.
Vehicle—Water.
Boiling point—100° C.
Vapor pressure (Hg)—21.8.
Specific gravity—1.101.

Toxicity Data

Acute oral toxicity LD_{50} (male and female rats)—>50 mg/kg.

Acute dermal toxicity LD_{50} (albino rabbits)—>200 mg/kg.

Eye irritation (albino rabbits)—Irritant.

Exposure. The manufacturer states that at a site controlled by the submitter, workers workers could have skin exposure 8 hr/da, 140 da/yr, during reactor sampling, packaging, and equipment cleaning.

At a site not controlled by the submitter, workers using the new substance could have skin and inhalation exposure during transfering, compounding, coating, saturating, or other processing.

Environmental Release/Disposal. No data were submitted. The manufacturer states that off specification waste materials will be disposed of according to State and Federal regulations.

PMN 81-91

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 21, 1981.

Manufacturer's Identity. Celanese Plastics & Specialties Company, 26 Main Street, Chatham, NJ 07928.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Hydroxy aryl ether ester of alkenoic acid.

Use. Claimed confidential business information. Generic use information provided: The submitter states that the PMN substance will be used in an industrial use as a component of coatings.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	100	100
2d year	500	20,000
3d year	5,000	50,000

Physical/Chemical Properties

Non-volatile (assumed)—100%.
Viscosity at 25° C—2-500 cps.
Acid value—5.0.
Color—15 Max.
Density—1.13.

Toxicity Data

Ames *Salmonella*/microsome mutagenesis assay—Non-mutagenic.
Eye irritation study—Positive.
Skin irritation study—In progress.
Oral toxicity test—In progress.

Exposure

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentration (PPM)	
		Hours/day	Days/year	Average	Peak
Manufacture: Skin and halation	40	8	15		
Processing: Skin	30	8	10		
Processing (user's site): Skin	100			10-100	

Manufacturing and processing occur in closed systems, limiting worker exposure to filling, sampling, and cleaning operations.

At user's site, exposure may occur during sampling, cleaning, and transferring.

Environmental Release/Disposal. The manufacturer states that at two sites controlled by the submitter, 110 to 1,100 kg/yr of the new substance will be released into the land. Filter sludge will be disposed by landfill; cleaning solvents will be recycled, then distilled, or disposed using RCRA approved procedures.

PMN 81-92

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 19, 1981.

Manufacturer's Identity. Gulf Oil Company, P.O. Box 701, Port Arthur, TX 77640.

Specific Chemical Identity. Lithium-lime-hydrogenated castor oil-tallow-naphthenic acid.

Use. The manufacturer states that the PMN substance will be used in a commercial use as part of a compound of lubricating greases.

Production Estimates. Approximately 700,000 lbs/yr.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. No data were submitted. The manufacturer states that the new substance will be produced in a closed system, limiting worker exposure to sampling and testing.

Environmental Release/Disposal. No data were submitted.

PMN 81-93

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 27, 1981.

Manufacturer's Identity. Union Carbide Corporation, 270 Park Avenue, New York, NY 10017.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Acrylic alkenyl ester polymer.

Use. The manufacturer states that the PMN substance is intended for use as an adjuvant in waste processing; not expected to come in contract with drinking water.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Physical form—Aqueous hydrocarbon polymer emulsion.

Boiling point, 760 mm Hg—>100° C.

Specific gravity, 20°/20° C.—1.01.

Flash point—230° F.

Polymer molecular weight—>10 million.

Environmental Test Data

Solids/water distribution—High preferential absorption on solids.

BOD, 20-day—Test in progress.

Toxicity Data

Fish toxicity 96-hour LC_{50} (fathead minnow)—560 mg/l.

Acute toxicity—In progress.

Exposure

Activity and Exposure route(s)	Maximum number exposed	Maximum duration		Concentrations	
		Hours/day	Days/year	Average	Peak
Manufacture: Skin and eye	15	8	100		
Use: Skin and eye	12	8	365		

The manufacturer states that anticipated worker exposure will be accidental during manufacture, distribution, and filed use.

Environmental Release/Disposal. The manufacturer states that environmental release of the PMN substance manufacture is not expected. In commercial use, the substance is absorbed on solid waste and buried with the stabilized waste solids.

PMN 81-94

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 27, 1981.

Manufacturer's Identity. Kelco, Division of Merck & Co., Inc., 8355 Aero Drive, San Diego, CA 92123.

Specific Chemical Identity. Polymer of *D*-glucose; acetic acid; propanoic acid, 2-oxo; and arabinose; *D*-mannose; *L*-mannose, 6-deoxy; and *D*-glucuronic acid, mixed ammonium, calcium, magnesium, potassium and sodium salt.

Use. The manufacturer states that the PMN substance will be used generally as an industrial stabilizer, thickener, and suspending agent, and, more specifically, as a thickener/stabilizer/gelling agent in slurry explosives.

Production Estimates. Claimed confidential business information

Physical/Chemical Properties. The manufacturer states that the PMN substance will be sold as a powder, is soluble in water, lower alcohols, and acetone; generally insoluble in organic solvents; has essentially no vapor pressure; and decompose without melting when heated above approximately 150°C.

Environmental Test Data

BOD_5—300 mg O_2/g.

COD—1,400 mg O_2/g.

Toxicity Data

Acute oral toxicity LD_{50} (male and female rats)—>5,000 mg/kg.

Acute eye irritation (albino rabbits)—Mild irritant.

Draize test (rabbits)—Minimally irritating.

Acute inhalation (rats) (4-hr. exposure, dust concentration of 5.7 mg/l (0.15 mg/l gravimetric))—Non-toxic.

Exposure. The manufacturer states that at a site controlled by the submitter, two manufacturing workers could have inhalation exposure to the new substance for 0.5 hr/da during packing, sampling, and testing.

At a typical user's site, workers could have skin and inhalation exposure to the product dust during the makeup of solutions.

Environmental Release/Disposal. No data were submitted. The manufacturer states that at a site controlled by the submitter, dust collected from accidental spills and baghouses would be dumped in a municipal landfill; liquid wastes are discharged into a municipal sewage treatment plant.

PMN 81-95

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 27, 1981.

Manufacturer's Identity. Kelco, Division of Merck & Co., Inc., 8355 Aero Drive, San Diego, CA 92123.

Specific Chemical Identity. Polymer of *D*-glucose; succinic acid; propanoic acid, 2-oxo; and galactose, mixed ammonium, calcium, magnesium, potassium, and sodium salt.

Use. The manufacturer states that the PMN substance will be used generally

as an industrial stabilizer, thickener, and suspending agent, and, more specifically, as an antimigrant in textile dyeing operations.

Production Estimates. Claimed confidential business information

Physical/Chemical Properties. The manufacturer states that the PMN substance will be sold as a powder; is soluble in water, lower alcohols, and acetone; generally insoluble in organic solvents; has essentially no vapor pressure; and decomposes without melting when heated above approximately 150°C.

Environmental Test Data

BOD_5—300 mg O_2/g.

COD—1,400 mg O_2/g.

Toxicity Data

Acute oral toxicity LD_{50} (male and female rats)—>5,000 mg/kg.

Acute eye irritation (albino rabbits)—Mild irritant.

Draize test (rabbits)—Minimally irritating.

Acute inhalation toxicity (rats) (4-hr exposure, dust concentration of 6.1 mg/l (0.1 mg/l gravimetric))—Non-toxic.

Exposure. The manufacturer states that at a site controlled by the submitter, 2 manufacturing workers could have inhalation exposure to the new substance for 0.5 hr/da during packing, sampling, and testing.

At a typical user's site, five workers could have skin and inhalation exposure. At a customer's site, two workers per production line would have skin and inhalation exposure. No consumer exposure is anticipated.

Environmental Release/Disposal. No data were submitted. The manufacturer states that at a site controlled by the submitter, dust collected from accidental spills and baghouses would be dumped in a municipal landfill; liquid wastes are discharged into a municipal sewage treatment plant.

[FR Doc. 81-9452 Filed 3-27-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-25]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: March 26, 1981.

Cut-off Date: May 11, 1981.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after May 11, 1981. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on May 11, 1981, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. no later than the close of business on May 11, 1981.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on May 11, 1981.

Applications for new stations may not be filed against any application on the attached list which is designated by an asterisk (*).

Federal Communications Commission.

William J. Tricarico,

Secretary.

BPCT-810102KG (new), Decatur, Illinois, Decatur Foursquare Broadcasting, Inc., Channel 23, ERP: Vis. 405 kW; HAAT: 627 feet

BPET-810119KF (new), Seaford, Delaware, Delaware Citizens Committee, Channel 64, ERP: Vis. 140 kW; HAAT: 945 feet

*BMLET-800213KG (WITF-TV), Harrisburg, Pennsylvania, South Central Educational Broadcasting Council, Channel 33, Change city of license from Hershey, Pennsylvania

BPCT-801217KI (new), Salt Lake City, Utah, Utah Television Associates, Channel 13, ERP: Vis. 60 kW; HAAT: 3901 feet

[FR Doc. 81-9541 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-182, File No. BPH-800201AR; BC Docket No. 81-183, File No. BPH-800714AJ]

Bridgeport Broadcasting Co. and Golden Venture, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Bert F. Dimock and Dan Dimock, d.b.a. Bridgeport Broadcasting Co., Bridgeport, Texas, Req: 96.7 MHz, Channel 244, 3.0 kW (H&V), 208.625 feet, BC Docket No. 81-182, File No. BPH-800201AR; and Golden Venture, Inc., Bridgeport, Texas, Req: 96.7 MHz, Channel 244, 3.0 kW (H&V), 300 feet, BC Docket No. 81-183, File No. BPH-800714AJ.

Hearing Designation Order

Adopted: March 13, 1981.

Released: March 24, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Bert F. Dimock and Dan Dimock d/b/a Bridgeport Broadcasting Co. (hereafter Bridgeport) and Golden Venture, Inc. for a new FM broadcast station at Bridgeport, Texas.

2. Analysis of the financial data submitted by Bridgeport reveals that at least $71,755 will be required to construct the proposed station and operate for three months itemized as follows:

Equipment payment	$44,555
Rental of land and buildings	Omitted
Miscellaneous	4,500
Operating costs (3 mo)	22,700
Total	71,755

Bridgeport intends to rely on a letter of credit for $71,755 and cash on hand of $34,857 to meet its construction and operating cost. While in theory the letter of credit is sufficient to cover the entire expense of construction and operation, applicant would have to draw on its cash on hand to meet the additional cost of rental of building and land, which was omitted from the original calculations. Here, however, applicant's cash on hand has not been shown to be available because its liabilities (unsegregated between current and long-term liabilities) exceed its current assets. Bridgeport also failed to substantiate the estimates of the data submitted as required by Paragraph 1(b) Section III, FCC, Form 301. Accordingly, a financial issue will be specified.

3. Data submitted by the applicants indicate that there would be a significant difference in the size of the area and populations which would receive service from the proposal. Consequently, for purpose of comparison, the area and populations which would receive FM service of 1 mV/m or greater, intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applicants are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to Bridgeport:

(a) the estimated cost for land and building;

(b) the source of availability of additional funds over and above the $71,755 indicated; and

(c) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That, to avail themselves of the opportunity to be

heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, that the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-9528 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 81-185]

Danny L. Buster; Application; Designating Applications for Consolidated Hearing on Stated Issues

Designation Order

Adopted: March 23, 1981.

Released: March 24, 1981.

The Chief, Private Radio Bureau, has under consideration the application of Danny L. Buster, 14627 Fonseca Avenue, La Mirada, California 90638, for a Citizens Band Radio station license. The application is dated February 25, 1980.

1. Information before the Commission indicates that on January 21, 1980, Buster made radio transmissions on the frequency 27.505 MHz. That frequency has been assigned for use by Industrial Radio Service stations. Buster did not possess a license authorizing the use of that frequency. Thus, the operation was apparently in violation of Section 301 of the Communications Act of 1934, as amended.

2. Further information before the Commission indicates that on February 22, 1980, Buster again made radio transmissions on the frequency 27.505 MHz. As on the previous occasion, this operation was apparently in violation of Section 301 of the Communications Act of 1934, as amended.

3. Buster's apparent unlicensed radio operation calls into question his qualifications to become a licensee in the Citizens Band Radio Service. The Commission is thus precluded from determining that a grant of Buster's application would serve the public interest, convenience and necessity.

4. Accordingly, it is ordered, pursuant to Section 309(e) of the Communications Act of 1934, as amended, §§ 1.973(b) and 0.331 of the Commission's Rules, that Buster's application for a Citizens Band Radio Station license is designated for hearing on the issues specified below:

(a) To determine whether Danny L. Buster made radio transmissions on January 21, 1980, in willful violation of Section 301 of the Communications Act of 1934, as amended.

(b) To determine whether Danny L. Buster made radio transmissions on February 22, 1980, in willful and repeated violation of Section 301 of the Communications Act of 1934, as amended.

(c) To determine whether Danny L. Buster has the requisite qualifications to become a Commission licensee.

(d) To determine whether a grant of the application of Danny L. Buster for a station license in the Citizens Band radio service, would serve the public interest, convenience and necessity.

4. It is further ordered, that if Buster desires to be heard on the application, he must file within 20 days a written appearance, in triplicate, stating that he will appear at a hearing to present evidence on the issues specified above.[1] If a hearing is requested, the time, place and Presiding Judge will be specified by subsequent order.

5. It is further ordered, That copies of this Order shall be sent by Certified Mail Return Receipt Requested and by Regular Mail to the applicant at his address of record (shown in caption).

Chief, Private Radio Bureau.

By: W. Riley Hollingsworth,

Acting Chief, Compliance Division.

[FR Doc. 81-9528 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-178, File No. BPCT-790327LD; BC Docket No. 81-179, File No. BPCT-791026LB]

Christian Broadcasting of the Midlands, Inc. and Pappas Telecasting Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Christian Broadcasting of the Midlands, Inc., Omaha, Nebraska, BC Docket No. 81-178, File No. BPCT-790327LD; and Pappas Telecasting Incorporated, Omaha, Nebraska, BC Docket No. 81-179, File No. BPCT-791026LB; for construction permit for a new television station.

Hearing Designation Order

Adopted: February 27, 1981.

Released: March 23, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, filed by Christian Broadcasting of the Midlands, Inc. (Christian) and Pappas Telecasting Incorporated (Pappas), for a new commercial television station on Channel 42, Omaha, Nebraska.

Christian Broadcasting of the Midlands, Inc.

2. Several letters were filed on behalf of concerned religious groups in Omaha-Council Bluffs area opposing the application of Christian. Generally, these groups express concern about the increasing impact that the so-called "television ministries" are having on the concept of the local church. As a potential religious broadcaster, Christian's application is being opposed on the grounds that the proposed religious programming would not be in the public interest in the Omaha-Council Bluffs area because of the purported narrow sectarian views represented, and that the station proposed by Christian will not offer an adequate outlet for religious groups with different viewpoints and philosophies.

3. The Commission has held that the prime consideration is not the religious orientation of a licensee, but "whether the applicant, whatever his own views, is likely to give a 'fair break' to others who do not share them." *WBNX Broadcasting Co.*, 12 FCC 837, 841, 4 RR 242, 248 (1948) *Noe v. FCC* 260 F.2d 739 (D.C. Cir. 1958). Where a question has been raised regarding the applicant's willingness to provide a "fair break" to other faiths with divergent religious precepts, an applicant has been required to indicate its intentions. However, in the instant case, the objectors have not alleged any specific facts with respect to this particular applicant which would raise a question as to whether the applicant is likely to adhere to the "fair break" doctrine. Their concerns are, therefore, speculative and further inquiry is not warranted. In the event of a grant of the Christian Broadcasting application, we would expect the permittee to comply with the "fair break" doctrine and we are confident

[1] Absent a showing of good cause, if a written appearance is not filed within the specified time period, the application will be dismissed with prejudice for failure to prosecute pursuant to § 1.221 of the Commission's Rules.

that the objector's vigilance can be relied upon to assure that result.

4. The financial data submitted by Pappas indicates that $4,360,400 will be required to construct and operate the proposed station for three months, itemized as follows:

Equipment	$3,173,400
Land	192,000
Buildings	45,000
Other items	
Legal	110,000
Engineering	10,000
Installation	85,000
Miscellaneous	440,000
Total construction expenditures	4,035,400
Total operating costs for 3 months	325,000
Total proposed expenditures	4,360,400

5. Analysis of the financial data presented in paragraph 4 leads to the following conclusions:

To meet these costs, Pappas relies on a line of credit of $5,000,000 from Bank of America. Although Pappas' balance sheet shows a working capital deficit of $529,300, the Commission finds Pappas to be financially qualified because the line of credit is earmarked for the construction and operation of the proposed new station.

6. Except as indicated by the issues specified below, the Commission finds Christian Broadcasting of the Midlands, Inc. and Pappas Telecasting Incorporated legally, financially, technically and otherwise qualified. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of the applications will serve the public interest, convenience and necessity. The applications must therefore be designated for hearing on the issues set out below.

7. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934 as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues: (1) To determine, on a comparative basis, which of the applications would better serve the public interest; (2) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, shall file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, that, the applicants herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934 as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-9527 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 81-184, File No. FNF-81-3, FCC 81-117]

Heritage Village Church and Missionary Fellowship, Inc.; Investigation

In the matter of petition of Heritage Village Church and Missionary Fellowship, Inc., CC Docket No. 81-184, File No. FNF-81-3, FCC 81-117 for emergency relief with respect to PBX interconnection to telephone service of Southern Bell Telephone and Telegraph Company.

Memorandum Opinion and Order

Adopted: March 20, 1981.

Released: March 26, 1981.

By the Commission: Chairman Ferris not participating.

1. Heritage's emergency petition, filed March 2, 1981, presents a *prima facie* case of interference with a telephone subscriber's federal, judicially upheld right to interconnect its customer-provided terminal equipment as it finds privately beneficial without being publicly detrimental. As we discuss below, Heritage's right to connect its privately owned PBX to the service provided by Southern Bell Telephone and Telegraph Company was challenged by the Fort Mill Telephone Company before the South Carolina Public Service Commission. Before Heritage's interconnection with Southern Bell is modified in any manner, we believe that Fort Mill must bear the burden of demonstrating that this privately beneficial arrangement is outweighed by the public detriment, if any, from continuing such an arrangement. Accordingly, we are setting this matter for investigation and will afford all persons and entities which may be interested a full opportunity to inform us of the relevant facts and their views. We are also directing Southern Bell to maintain the current interconnection pending our further order or decision in this matter.

Background

2. Heritage seeks, among other things, that we order Southern Bell to maintain and continue providing existing telephone services to Heritage's privately owned PBX terminal equipment switch located in North Carolina near the South Carolina border. The PBX is equipped to serve 300 telephones in Heritage's Total Living Center, a 1,050 acre complex, approximately 50 acres of which are in North Carolina and the balance of which are in South Carolina. Heritage's request for emergency relief stems from an order of the South Carolina Public Service Commission which directed Southern Bell to discontinue providing telephone service to Heritage on grounds that Southern Bell and Heritage were engaged in providing unauthorized telephone utility service within the certificated exchange area of the Fort Mill Telephone Company in South Carolina.

3. In denying rehearing, the South Carolina Public Service Commission (SCPSC) extended the time for such discontinuance 30 days, or until March 23, 1981, and conditioned the ordered discontinuance upon arrangements having been made between Heritage and Fort Mill Telephone Company to avoid interruption of service.

4. A portion of the Heritage property situated in North Carolina is wholly within the exchange territory of Southern Bell's North Carolina operations and that portion physically extending into South Carolina falls within the exchange area of Fort Mill Telephone Company. Heritage states that the South Carolina portion is a rural area which remains substantially unserved by Fort Mill Telephone Company. Heritage's Total Living Center facilities include a major administration complex and television broadcast and production facility, guest chalets, residential and semi-permanent trailers, a ranger station used for first-aid and security, a tennis pro shop, snack facilities, and other recreational facilities provided primarily for the convenience of visitors. Heritage also represents that virtually all the 300 telephones within the complex are used for its own business and administration purposes. The PBX facility is connected to 40 Southern Bell exchange trunks and 5 interstate WATS lines. The Heritage PBX terminal system of 300 telephone stations is connected to its PBX switch by customer-owned station wiring

installed by Heritage contractors. No one disputed Heritage's representation that its connection to the telephone network is in full compliance with the Federal registration rules under Part 68 of the FCC Rules and Regulations.

5. Heritage has chosen to situate its PBX in Southern Bell's North Carolina exchange area, rather than in Fort Mill Telephone Company's South Carolina exchange area, because of a community of interest with Charlotte, N.C., as well as economic, technical, and religious reasons. *See* Petition, pp. 5–7.

6. Southern Bell has advised the FCC that: its facilities have been interconnected with the Heritage PBX since about July 1, 1978; such interconnection was effected pursuant to a request for service initiated by Heritage; the PBX is registered "fully protected" equipment meeting all standards of its tariffs and Part 68 of FCC Rules; and that the customer-provided station wiring was determined to require no scrutiny nor acceptance testing by Southern Bell. It thus believed that the interconnection with Heritage's PBX was required by North Carolina statutes, its North Carolina tariff, and FCC Rules.

7. After a hearing, upon a complaint of Fort Mill Telephone Company, the SCPSC concluded that Heritage provides a telephone service to certain persons which constitutes operating telephone service for hire without authority. It further concluded that Southern Bell has, by interconnecting its trunk and interstate WATS lines with the Heritage PBX, unlawfully extended Southern Bell's telephone service into Fort Mill Telephone Company's exchange area. As previously noted, Heritage must switch its telephone connection from Southern Bell to Fort Mill Telephone Company by March 23, "provided that suitable arrangements have been made between [Heritage] and Fort Mill Telephone Company, to avoid interruption of service." The SCPSC order requires Heritage to enter into negotiations with Fort Mill Telephone Company for the purpose of obtaining PBX trunks and other telephone service from that company rather than from Southern Bell. Heritage has entered into preliminary discussions and reiterated its current requirements for service from Fort Mill Telephone Company while reserving its legal rights to seek reversal or preemption of the SCPSC order. Fort Mill Telephone Company is expediting development of a service plan for the Heritage complex.

8. In support of its petition for emergency relief, Heritage contends, among other things, that the SCPSC orders present an immediate threat to its federally guaranteed right to use and connect its privately-owned telephone terminal equipment and to its rights under Sections 201(a) and 202(a) of the Communications Act to enjoy the tariffed services of Southern Bell in a non-discriminatory manner.

9. Southern Bell is prepared to continue the interconnection with Heritage so long as the status quo remains unchanged and until final adjudication of the controversy. It states that its sole interest in the present controversy is whether it is legally obligated to interconnect its facilities with Heritage's PBX.

10. By letter dated March 12, 1981, the SCPSC stated that the Heritage petition is "inappropriate, premature, not properly before the Commission, and should be denied." The SCPSC asserts that its order maintains that there will be no interruption of Heritage's service and that the matter is within its continuing jurisdiction. Fort Mill Telephone argued in opposition to Heritage's petition that there is no emergency because the SCPSC has not ordered a discontinuance that would leave Heritage without service. Fort Mill did concede that its self-interest will be served by completing the substitute arrangements for service to Heritage at the earliest possible date.

Discussion

11. This dispute is ripe for FCC consideration. See *NCUC* v. *FCC*, 537 F.2d 787, 790–791, n. 2 (4th Cir. 1976). Petitioner Heritage relies upon the *Hush-A-Phone, Carterfone* line of cases that establish a telephone user's basic right under Section 201 of the Communications Act to connect the user's own telephone terminal equipment and systems to the telephone network. Federal courts have repeatedly found attempts to interfere with such right, without a substantive showing of harm to the public, to constitute unwarranted inteference with the consumer's federally insured rights. See *Hush-A-Phone Corp.* v. *U.S.*, 238 F.2d 266 (D.C. Cir., 1966); *Membane Home Telephone Co.* v. *FCC*, 535 F.2d 1324 (D.C. Cir., 1976); *affirming* 53 FCC 2d 473; *North Carolina Utilities Commission, supra; Puerto Rico Telephone Company* v. *FCC*, 553 F.2d 694 (1st Cir. 1977); and *North Carolina Utilities Commission* v. *FCC*, 552 F.2d 1036 (4th Cir.), *cert den.*, 434 U.S. 874 (1977).

12. Heritage has made a *prima facie* case of immediate and continuing interference with its federal, judicially upheld right to use its PBX switch as it finds privately beneficial. An outstanding order requires modification of the current interconnection by Southern Bell. The SCPSC order apparently frustrates consumer use of registered terminal equipment. In accordance with the well established federal policy, the burden now rests on Fort Mill Telephone Company to establish before the FCC that the current interconnection will result in direct, substantial and immediate injury to its telephone system and detriment to the public interest. It also has the burden of persuasion that the private benefits flowing from Heritage's present interconnection are outweighed by detrimental public considerations. See e.g., *mebane*, 53 FCC 2d 473 (1975) and *Puerto Rico Telephone Co.*, 57 FCC 2d 1202 (1976).

13. In the absence of prompt FCC action, Heritage's right to use its telephone equipment as it finds beneficial is in jeopardy. The fact that there may be no actual discontinuance of service to Heritage does not obviate the need for prompt FCC action, since the changeover to service from Fort Mill Telephone Company may in itself be an interference with Heritage's federal rights. Further, Southern Bell could be confronted with the dilemma of defying either the SCPSC or federal policy. Accordingly, we will act at this time to assure that the current interconnection between Heritage and Southern Bell shall not be modified pending a full investigation of the facts and opportunity for all interested parties to brief the issues.

14. Fort Mill Telephone Company, as a connecting carrier engaged in the provision of interstate communication service is expressly subject to the requirements of Section 201–205 of the Communications Act. It is also bound by the applicable provisions of interstate tariffs of AT&T filed with this Commission which implement the federal right of customers to interconnect their customer-provided terminal equipment to the telephone network as long as such equipment is properly registered pursuant to our registation program and Part 68 of our Rules and Regulations. Southern Bell, of course, is fully, subject to all of Title II of the Communications Act and AT&T's tariffs.

15. Accordingly, pursuant to authority in Sections 4(i), 4(j), 201, 202, 208 and 403 of the Communications Act, 47 U.S.C. 154(i), 154(j), 201, 202, 208 and 403, and §§ 1.1 and 1.2 of our Rules and Regulations, 47 CFR 1.1 and 1.2, this matter is designated for investigation.

16. It is further ordered, That comments may be filed by any interested persons identifying the

relevant issues, facts, and legal considerations. Comments shall be filed within 30 days of release of this Order. Replies may be filed no later than 15 days, thereafter.

17. It is further ordered, That Southern Bell, which is engaged in providing interstate telephone services over exchange trunks and interstate WATS lines to the Heritage PBX site at an interface point located within its service area, is directed to maintain the current interface until further order of this Commission.

18. It is further ordered, That the relief requested by Heritage Village Church and Missionary Fellowship, Inc. in its petition for emergency relief is hereby granted to the extent indicated above, and otherwise shall be held in abeyance pending our decision or further order.

19. It is further ordered, That the Secretary shall cause a copy of this Memorandum Opinion and Order to be published in the **Federal Register** and shall send a copy by registered mail, to Fort Mill Telephone Company and Southern Bell Telephone and Telegraph Company, South Carolina Public Service Commission and the North Carolina Utilities Commission.

20. It is further ordered, That this order is effective immediately.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-9534 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 81-177, File No. 21281-CD-P-(3)-79]

Mobile Phone of Texas, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In the matter of application of Mobile Phone of Texas, Inc., CC Docket No. 81-177, File No. 21281-CD-P-(3)-79, for a construction permit to establish a new two-way station to operate on frequencies 454.175, 454.225 and 459.225 MHz in the Domestic Public Land Mobile Radio Service at Huckabay, Texas.

Memorandum Opinion and Order

Adopted March 17, 1981.

Released March 23, 1981.

By the Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, is the above-captioned application of Mobile Phone of Texas, Inc. (Mobile Phone).

2. A brief review of the background of this application is helpful. This application was originally filed on April 3, 1979, as an application for a new two-way station to operate on frequencies 152.06, 454.225 and 459.225 MHz at Huckabay, Texas. This application was electrically mutually exclusive on frequency 152.06 MHz with an application of Arnold Anderson d/b/a Concho Communications, File No. 20780-CD-P-(2)-79. Consequently, these applications were designated for a comparative hearing in a consolidated proceeding. *Concho Communications*, 78 FCC 2d 391 (Common Carrier Bureau 1980). However, before the hearing commenced, the parties entered into a settlement agreement whereby, *inter alia*, Mobile Phone agreed to amend its application from frequency 152.06 MHz to 454.175 MHz. Thereafter, the Presiding Administrative Law Judge approved the agreement and ordered that Mobile Phone's application as amended be removed from hearing and returned to the processing line. *Concho Communications*, FCC 80M-1662, released September 11, 1980.

3. It appears that Mobile Phone's amended application for frequency 454.175 MHz is electrically mutually exclusive with the application of Jim Bob Measures d/b/a Radiofone, File No. 22038-CD-P-(2)-80, which has already been designated for comparative hearing with another application of Mobile Phone, File No. 22513-CD-P-(2)-80, in CC Docket Nos. 81-84 through 81-87, *Mobile Phone of Texas, Inc.*, Mimeo 7105, 46 FR 14058 (Common Carrier Bureau February 25, 1981).

4. In view of the foregoing, pursuant to Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. 309, we find this applicant qualified to construct and operate the proposed facility. Accordingly, it is ordered, that the application of Mobile Phone of Texas, Inc., File No. 21281-CD-P-(3)-79, is designated for hearing and consolidated with the hearing in CC Docket Nos. 81-84, to 81-87 on the same issues and with the same parties as in that proceeding.

5. It is further ordered, that the applicant may avail itself of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence concerning the above-captioned application on the issues specified in CC Docket Nos. 81-84 to 81-87.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register**.

Joseph A. Marino,

Acting Chief, Common Carrier Bureau.

[FR Doc. 81-9533 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-180, File No. BPH-791204AA; BC Docket No. 81-181, File No. BPH-800130AI]

Tower Power Corp. and Richard Lee Hammer, Sherry Lynne Hammer and Janie Sue Orton DBA Winnsboro Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues

In the matter of applications of Tower Power Corporation, Winnsboro, Texas, Req: 104.9 MHz, Channel 285, 3kW (H&V), 300 feet, BC Docket No. 81-180, File No. BPH-791204AA; and Richard Lee Hammer, Sherry Lynne Hammer and Janie Sue Orton DBA Winnsboro Broadcasting Company, Winnsboro, Texas, Req: 104.9 MHz, Channel 285, 3 kW (H&V), 300 feet, BC Docket No. 81-181, File No. BPH-800130AI; for construction permit for a new FM station.

Hearing Designation Order

Adopted: March 13, 1981.

Released: March 25, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Tower Power Corporation (TPC) and Richard Lee Hammer, Sherry Lynne Hammer and Janie Sue Orton d.b.a. Winnsboro Broadcasting Company (Winnsboro).

2. *TPC.* Analysis of the financial portion of TPC's application reveals that it will require $30,000 to construct the proposed facility and operate for three months, itemized as follows:

Building	$6,000
Miscellaneous & other costs	6,000
Operating costs (three months)	18,000
Total	$30,000

TPC plans to finance construction and operation with a $50,000 loan from the First National Bank of Gilmer, Texas. However, the bank loan letter fails to comply with Paragraph 4(e) of Section III of FCC Form 301 in that it does not specify the interest rate of the loan and the terms of repayment. In addition, TPC's balance sheet does not segregate current liabilities from long-term

liabilities. Accordingly, we must assume that all liabilities shown are current. Since these liabilities exceed current assets, we find no funds available from this source. Moreover, although TPC plans to lease its equipment and land, the applicant has provided no lease agreement or other statement to support its estimate. In view of the foregoing, a financial issue will be specified.

Winnsboro. Analysis of the financial portion of Winnsboro's application reveals that it will require $30,354.50 to construct the proposed facility and operate for three months, itemized as follows:

Equipment (lease)	$12,000.00
Miscellaneous & other costs	7,200.00
Operating costs (three months)	11,154.50
Total	$30,354.50

To meet these expenses Winnsboro intends to rely on a $55,000 loan from the Winnsboro Bank & Trust Co. and $24,000 in existing capital, as provided for in the Partnership Agreement of the company. However, the bank loan letter fails to comply with Paragraph 4(e) of Section II of FCC Form 301 in that it does not specify the interest rate of the loan and the terms of repayment. Moreover, the applicant failed to file balance sheets of the partners, who are contributing $12,000 each to the company, showing current assets and current liabilities, as required by Paragraph 2(a) of Section III of FCC Form 301. In addition, Winnsboro plans to lease land and buildings but has not provided a copy of the lease or other documentation to support its estimate. Accordingly, a limited financial issue will be specified.

4. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the Rules. We have no evidence that Winnsboro published the required notice. To remedy this deficiency, Winnsboro will be required to publish local notice of its application, if they have not already done so, and to file a statement of publication with the presiding Administrative Law Judge.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to TPC:

(a) The itemized cost of leased equipment and land for the first three months of operation;

(b) The source and availability of funds to meet its expected costs; and

(c) In light of the evidence adduced pursuant to (a) and (b) above, whether the applicant is financially qualified to construct and operate the proposed station.

2. To determine with respect to Winnsboro:

(a) The itemized cost of leased land and buildings for the first three months of operation;

(b) The source and availability of funds to meet its expected costs; and

(c) In light of the evidence adduced pursuant to (a) and (b) above, whether the applicant is financially qualified to construct and operate the proposed station.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

7. It is further ordered, That Winnsboro shall publish local notice of the filing of its application with the Commission in accordance with § 73.3580(h) of the Rules and file a statement of publication with the presiding Administrative Law Judge.

8. It is further ordered, That to avail themselves of the oppportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-6529 Filed 3-27-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-636-DR]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA-636-DR), dated March 17, 1981, and related determinations.

DATED: March 17, 1981.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634-7800.

SUPPLEMENTARY INFORMATION: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of March 17, 1981, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky resulting from sewer explosions in Louisville, on February 13, 1981, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, the Federal funds under PL 93-288 will be limited to 75 percent of all eligible public assistance in designated areas. Federal disaster assistance will be limited to emergency sewer and related street repair under Section 306, PL 93-288.

You are directed to work with the U.S. Department of Justice, the Commonwealth of Kentucky and its political subdivisions in seeking recovery of funds expended under

this declaration from any party potentially responsible for the damage resulting from this incident in Louisville.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Thomas P. Credle of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the Commonwealth of Kentucky to have been affected adversely by this declared major disaster.

Jefferson County for emergency sewer and related street repair under Section 306, PL 93-288.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance. Billing Code 6718-02)

Thomas R. Casey,

Acting Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 81-9443 Filed 3-27-81; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities; Central Service Corp.

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 22, 1981.

A. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Central Service Corporation, Enid Oklahoma (financing and loan activities; Oklahoma, Kansas, and Texas): to engage in the making or acquiring, for its own account or for the account of others, loans and other extensions of credit, including the purchase and discount of notes, the purchase of participations in loans, and the extension of direct loans to customers. The activities would be conducted from offices in Enid, Oklahoma, serving the State of Oklahoma, the northern portion of Texas, and the southern portion of Kansas.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, March 23, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-9445 Filed 3-27-81; 8:45 am]

BILLING CODE 6210-01-M

Northwoods Bankshares, Inc.; Formation of Bank Holding Company

Northwoods Bankshares, Inc., Fond du Lac, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88 percent or more of the voting shares of Bank of Spooner, Spooner, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 19, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 20, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-9444 Filed 3-27-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Expired Forms no Longer Having Valid GAO Clearances (FTC, ICC and NRC)

The clearances for the following five forms previously approved by the General Accounting Office, pursuant to section 409 of Public Law 93-153 (44 U.S.C. 3512), have lapsed. The agencies have not notified GAO to drop the forms from the inventory nor have the forms been resubmitted to GAO for approval for continued use. Therefore, these forms no longer have valid GAO clearances.

The agencies responsible for these forms, the specific identification of the forms, the dates they expired, and the types of respondents affected by each form are as follows:

Federal Trade Commission

Clearance for the Line of Business form which is sent to selected companies among the 1,000 largest in the manufacturing sector expired on December 31, 1979 (GAO Approval No. R0048).

Clearance for the Export Trade Association Questionnaire and Special Report which is filed by Registered Export Trade Associations orgainzed under the Federal Trade Act expired on December 31, 1980 (GAO Approval No. 488).

Interstate Commerce Commission

Clearance for the Monthly Report of Employees, Service, and Compensation, Forms A and B, required to be filed by Class I Railroads expired on December 31, 1980 (GAO Approval No. R0277).

Clearance for the Preliminary Report of Number of Employees of Class I Railroads expired on December 31, 1980 (GAO Approval No. R0278).

Nuclear Regulatory Commisson

Clearance for the Control of Heavy Loads Near Spent Fuel—Letter and Questionnaire required to be filed by Power Reactor Facility Licensees expired on February 28, 1981 (GAO Approval No. R0522).

Any request for a new approval for use of these expired forms must be submitted by the above-listed agencies to the Office of Management and Budget pursuant to Public Law 96-511, effective April 1, 1981.

Norman F. Heyl

Regulatory Reports Review Officer.

[FR Doc. 81-9441 Filed 3-27-81; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Cancellation of Meeting; Biometry and Epidemiology Contract Review Committee

Notice is hereby given of the cancellation of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, April 16, 1981, which was published in the **Federal Register** on March 16, 1981, (46 FR 16943). For further information contact Dr. Wilna A. Woods on 301/496-7153, Westwood Building, Room 822, Bethesda, Maryland 20205. This meeting is cancelled because no contract proposals are scheduled for review at this time.

Dated: March 24, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-9432 Filed 3-27-81; 8:45 am]

BILLING CODE 4110-08-M

Breast Cancer Task Force Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Breast Cancer Task Force Committee, National Cancer Institute, April 6, 1981, Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. to 6:00 p.m., for discussions involving chemical Carcinogen-Hormone Interaction in Transformation of Mammary Epithelial Cells In Vitro. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. D. Jane Taylor, Executive Secretary, Breast Cancer Task Force Committee, National Cancer Institute, Landow Building, Room 8C09D, 7910 Woodmont Avenue, Bethesda, Maryland 20014 (301/496-6718) will furnish substantive program information.

Dated: March 24, 1981.

Thomas E. Malone,

Deputy director, National Institutes of Health.

[FR Doc. 81-9433 Filed 3-27-81; 8:45 am]

BILLING CODE 4110-08-M

President's Cancer Panel; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the President's Cancer Panel, April 13, 1981, Building 31A, Conference Room 4, National Cancer Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items will include reports by the Director, National Cancer Institute, and the Chairman, President's Cancer Panel. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Richard A. Tjalma, Executive Secretary, National Cancer Institute, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5854) will furnish substantive program information.

Dated: March 25, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-9434 Filed 3-27-81; 8:45 am]

BILLING CODE 4110-08-M

Public Health Service

Delegation of Authority; Administrator of Health Resources Administration

Notice is hereby given that in furtherance of the delegation of November 20, 1980, by the Secretary of Health and Human Services to the Assistant Secretary for Health (46 FR 1032) the Acting Assistant Secretary for Health has delegated to the Administrator, Health Resources Administration, with authority to redelegate, all the authority delegated to the Assistant Secretary for Health under Title SV of the Public Health Service Act (42 U.S.C. 300k *et seq.*), as amended, pertaining to national health planning and development. The delegation from the Acting Assistant Secretary for Health to the Administrator, Health Resources Administration, provides that the exercise of authorities under Section 1513(e)(2), Section 1521(d)(2), and Section 1524(c)(6) are limited to the administration of programs and functions assigned to the Health Resources Administration.

The April 20, 1979 delegation (44 FR 25930-25931), from the Assistant Secretary for Health to the Administrator, Health Resources Administration, as it pertains to authorities under Title XV of the Public Health Service Act, has been superseded. Provision has been made pending further redelegation for previous delegations and redelegations of authority under Title XV of the Public Health Service Act to other officials within the Health Resources Administration to continue in effect provided they are consistent with the delegation to the Administrator, Health Resources Administration.

The delegation to the Administrator, Health Resources Administration, became effective on March 19, 1981.

Dated: March 19, 1981.

Charles Miller,

Acting Assistant Secretary for Health.

[FR Doc. 81-9489 Filed 3-27-81; 8:45 am]

BILLING CODE 4110-83-M

Privacy Act of 1974; New System of Records

AGENCY: Department of Health and Human Services; Public Health Service.

ACTION: Notification of a new system of records: 09-25-0143: Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish a new system of records, 09-25-0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID. We are

also proposing routine uses for this system.

This system will be used to support (1) epidemiologic, clinical and biometric investigations into the causes, nature (morbidity and mortality), outcome, therapy and cost of infectious, immunologic and related diseases; (2) review and evaluation of the progress of these research projects, and identification and planning for improvements or for additional research. The population and statistical studies supported by this system may be conducted or managed by Institute staff as well as others outside the Institute. This system comprises records maintained in a number of distinct research projects. The number and specific nature of projects will change over time as new ones are started and as work on existing projects is completed.

PHS invites interested persons to submit comments on the proposed routine uses on or before April 29, 1981.

DATES: PHS has sent a Report of New System to the Congress and to the Office of Management and Budget on March 23, 1981. The system of records will be effective May 22, 1981, unless PHS receives comments on the routine uses which would result in a contrary determination.

ADDRESS: Comments should be addressed to the National Institutes of Health (NIH) Privacy Act Coordinator at the address listed below. Comments received will be available for inspection weekdays between 9 a.m. and 3 p.m. in Room 3B03, Building 31, at that address.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth Thibodeau, NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20205 (or call 301-496-4606).

SUPPLEMENTARY INFORMATION: The proposed system of records comprises research data collected on patients with infectious, immumologic (e.g. allergy) and related diseases, normal healthy volunteers who serve as controls for comparison with patients, relatives of patients and other individuals whose characteristics or conditions are being studied for possible connections with the occurrence of the diseases under investigations.

Such research will involve both scientists on the staff of NIAID and other scientists working under contracts awarded on a competitive basis to hospitals and clinics, to educational and research institutions, to Federal, state or local government agencies, and to commercial enterprises.

Records collected under this system will be organized and maintained according to the particular research project of which they are a part. Records will not be entered into a general or comprehensive data base; however, NIAID is treating the separate sets of records as a single system under the Privacy Act (1) because all of the sets of records are of the same general type and serve the same purposes, (2) in order to insure consistent policies and practices in the maintenance of such records, and (3) to make it easier for subject individuals to obtain notification of or access to their records.

The records in this system will be used to develop generalized knowledge about diseases, their causes, incidence and effects. The records will not be used to make determinations affecting the rights, benefits or privileges of specific individuals. Normally, the research records containing data used in scientific analysis will be kept separately from information, such as names, which would identify specific individuals; however, individually identified records may be retrieved when needed for purposes of verfication, to obtain additional data on a given individual or to alert the volunteer subjects to findings in the study that might affect their health. Reporting of results of the research will be in aggregate and statistical form only and will not disclose identifying particulars about any individual. In addition, research data may be used for program review and evaluation in order to insure that research projects are progressing towards their goals and to determine any improvements or additional research that might be necessary.

The routine uses proposed for this system are compatible with the stated purposes of the system and with the protection of privacy. The first proposed routine use provides for disclosure to HHS contractors and collaborating researchers when this is necessary to achieve the basic research goals of the projects covered by this system. Such disclosure might be necessary in order to verify data originally submitted, to obtain additional information, to notify subjects of findings that might affect their health, or for analysis and preparation of reports.

The second proposed routine use, for quality assessments, medical audits and reviews, will enable the Department to insure that these research activities are conducted properly.

A routine use to permit disclosure for independent research by scientists who are not contractors or collaborators in a project funded by NIAID is proposed in order to further the advance of medical science in cases where scientists could use the data in the system to repond to valid and significant research questions in addition to those addressed by the original project. In such cases, NIAID will disclose data only with restrictions as to maintenance and use which are appropriate to safeguard the privacy of the subjects of the records.

The routine use for disclosure to the Department of Justice for advice on releasing information from the system in response to requests filed under the Freedom of Information Act (FOIA) protects the privacy of subjects by insuring against unwarranted releases of personal information under FOIA.

The proposed routine use for disclosure to contractors for collating, analyzing, aggregating or otherwise refining records is intended to allow the Department to contract for processing information in these system when that is necessary for the fullest possible scientific use of the research data collected. Such processing may be necessary because of complications arising during a study or when new insights gained from the study make it worthwhile to analyze the data in new ways which were not foreseen, or for activities such as microfilming the records or transferring data from original textual records into automated data files.

The proposed routine use for disclosure to the Department of Justice for defense purposes reserves the right of the Government to defend itself or its employees. The necessity for such defense would arise in connection with the system (1) if individuals allege that they were harmed mentally or physically by the clinical research activities which this system supports; (2) in any suits that result from HHS response to requests under the Privacy Act or the Freedom of Information Act; or (3) in cases that might result from actions by the agency to protect the rights of human subjects in research programs under the authority of 42 U.S.C. 2891-3, Institutional Review Boards, Ethics Guidance program.

The proposed routine use for disclosure to a congressional office would not violate the privacy of an individual because such disclosure would be made only pursuant to a request initiated by the individual.

Dated: March 24, 1981.

Jack N. Markowitz,

Acting Director, Office of Management.

09-25-0143

SYSTEM NAME:

Biomedical Research: Records of Subjects in Clinical, Epidemiologic and

Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At National Institutes of Health facilities in Bethesda, Maryland, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating Federal agencies. Inactive records may be retired to Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with infectious diseases, immunologic diseases involving adverse reactions of the body (e.g. allergic reactions) and related diseases, normal healthy volunteers who serve as controls for comparison with patients, relatives of patients and other individuals whose characteristics or conditions are being studied for possible connections with the occurrence of the diseases under investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and epidemiological information resulting from or contained in direct observations, medical records and other histories, vital statistics reports, records on biological specimens (e.g., blood, urine, etc.), personel interviews, questionnaires, progress reports, correspondence or research findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, Research and Investigation, and 431, Establishment of Institutes, of the Public Health Service Act (42 U.S.C. 241, 289a).

PURPOSE(S):

This system will be used to support:

1. Epidemiologic, clinical and biometric investigations into the causes, nature (morbidity and mortality), outcome, therapy and cost of infectious, immunologic and related diseases;

2. Review and evaluation of the progress of these research projects, and identification of and planning for improvements or for additional research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and collaborating researchers, who may be HHS grantees, and their staffs, in the conduct of the study and in preparation of scientific reports, in order to accomplish the research purpose for which the records are collected. The recipients will be required to maintain Privacy Act safeguards with respect to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department:

(A) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law;

(D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. The Department contemplates that it may contract with one or more private firms for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, computer-accessible forms (e.g. tapes or discs), punched cards, bound notebooks, microfilm, charts, graphs, and X-rays.

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

Access to or disclosure of information is limited to collaborating researchers, contractors and NIAID employees who are involved in the conduct, support or review and evaluation of the research activities supported by this system. Contractors and collaborating researchers are required to comply with the provisions of the Privacy Act and with Department regulations.

Data are kept in secured areas (e.g. rooms which are locked when not in regular use, buildings with controlled access). Data stored in computer-accessible form is accessed through the use of key words known only to principal investigators or authorized personnel; all other information is stored in locked files.

These and other appropriate safeguards are implemented in each project in accordance with chapter 45-

13 of the HHS General Administration Manual, supplementary chapter PHS hf. 45–13, and part 6, Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records at contractor facilities are retained and destroyed according to the contractor's records disposition schedule. Records at NIAID facilities are retained and destroyed in accordance with the authority provided in the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows the records to be kept until the system manager determines that the data has no further value for scientific research. Disposal methods include burning or shredding hard copy and erasing computer tapes and discs.

SYSTEM MANAGERS AND ADDRESS:

Chief, Epidemiology and Biometry Branch, National Institute of Allergy and Infectious Diseases, Westwood Building, Room 739, Bethesda, Maryland 20205.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

NIAID Privacy Act Coordintor, Room 7A–03, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20016

and provide the following information:

1. System name,
2. Complete name and home address at the time of the study,
3. Birthdate,
4. Facility conducting study,
5. Disease type (if known),
6. Approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to 5,000 dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Write to the system manager and reasonably identify the record, specify the information being contested and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, from physicians, research investigators and other collaborating persons and from medical records and clinical research observations at hospitals, HHS agencies, universities, medical schools, research institutions, commercial institutions, state agencies, collaborating Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-9500 Filed 3-27-81; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado; Craig District Advisory Council; Meeting

In accordance with Pub. L. 94–579, notice is hereby given that there will be a meeting of the Craig District Advisory Council on April 23, 1981.

The meeting will begin at 9:30 a.m. in the conference room of the Craig District Office of the Bureau of Land Management, 455 Emerson Street, Craig, Colorado.

The agenda of the meeting will include:

1. Introduce our new District Manager;
2. Status report on filing on water rights;
3. Discussion of field tour for Advisory Council;
4. Council recommendation on issues and problems to be addressed by the Advisory Council; and
5. Statements from the public.

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 3:00 p.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Anyone wishing to address the Council or file a written statement should notify the District Manager, Bureau of Land Management, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625, by April 20, 1981.

Summary minutes of the Council Meeting will be maintained in the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Frances E. Noll,

Acting District Manager.

[FR Doc. 81-9415 Filed 3-27-81; 8:45 am]

BILLING CODE 4310-84-M

North Atlantic Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Public Law No. 92–463).

Name: North Atlantic Technical Working Group
Dates: 14–15 April 1981
Place: Holiday Inn-Somerville, 30 Washington Street, Somerville, Massachusetts
Times: 14 April—10:00 a.m. to 5:00 p.m. 15 April–9:00 a.m. to 12:00 p.m.

Committee membership consists of representatives from federal agencies, the coastal states of Maine through New Jersey, the petroleum industry, and other private interests.

Agenda: (14 April) Presentation on ongoing BLM funded studies in the North Atlantic region; presentation of monitoring proposal for Georges Bank. (15 April) Recommendations for monitoring on the Georges Bank.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Richard Barnett of the New York OCS Office (212–264–1061) by 6 April 1981. Written statements should be submitted by 22 April 1981 to the New York OCS Office, Bureau of Land Management, 26 Federal Plaza, Suite 32–120, New York, New York 10278.

Minutes of the meeting will be available for public inspection and copying by 10 June 1981 at the above address.

Frank Basile,

Manager, New York OCS Office.

[FR Doc. 81-9540 Filed 3-27-81; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Marathon Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2061, Block 321, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that The Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 23, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81–0480 Filed 3–27–81; 8:45 am]

BILLING CODE 4310–31–M

INTERNATIONAL CONVENTION ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Section 10(a)(c) of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, that a meeting of the International Convention Advisory Commission will be held on Thursday, April 30, 1981, 1:30 p.m., Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C.

The Commission will consider program objectives for fiscal years 1982–85, documents concerning the Convention permit system, and miscellaneous other business.

For further information contact Dr. William Y. Brown, Executive Secretary, International Convention Advisory Commission, Suite 220, 1010 Wisconsin Avenue, NW., Washington, D.C. 20007, telephone 202/343–7407. Opportunity will be given for oral or written presentations provided that appointments are made with Dr. Brown by 5:00 p.m., April 24, 1981.

Dated: March 25, 1981.

William Y. Brown,

Executive Secretary, International Convention Advisory Commission.

[FR Doc. 81–0442 Filed 3–27–81; 8:45 am]

BILLING CODE 4310–68–M

INTERSTATE COMMERCE COMMISSION

Long- and Short-Haul Applications for Relief (Formerly Fourth Section Applications)

March 25, 1981.

These applicatons for long-and-short-haul 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.

No. 43908, Southwestern Freight Bureau, Agent (No. B–118), reduced rates on Cement and related articles, from Stonetown, TX to stations in Southwestern and Western Trunk Line Territories, as published in Supplement 193 to its tariff ICCV SWFB 4740, scheduled to become effective April 15, 1981. Grounds for relief-market competition.

No. 43909, Southwestern Freight Bureau, Agent (NO. B–119), on carload shipments of volcanic scoria or slag, from Raton, NM to stations in Southwestern Territory, effective April 14, 1981, in supplement 246 to its tariff ICC SWFB 2004–J. Grounds for relief-market competition.

No., 43910, Southwestern Freight Bureau, Agent (No. B–120), reduced rates on Iron or Steel Articles, in carloads from Eastern Territory origins served by Conrail to Boeuf, Morgan City, Pesson and Weeks, LA as published in Supplement 570 to its tariff ICC SWFB 4850, scheduled to become effective April 22, 1981. Grounds for relief-origin rate relationship and market competition.

By the Commission.

Agatha L. Mergenovich,

Secretary

[FR Doc. 81–0502. Filed 3–27–81; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may

have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: March 16, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC-F-14329F, filed March 5, 1980. WINTZ TRANSPORTATION CO. (Wintz) (1706 American National Bank Bldg., St. Paul, MN 55101)—PURCHASE—DENVER MIDWEST MOTOR FREIGHT, INC. (Denver) (P.O. Box 996, Denver, CO 80201) (WINTZ MOTOR FREIGHT, INC., ASSIGNOR). Representative: Brian K. Ridenour, P.O. Box 82028, 1200 N Street, 500 The Atrium, Lincoln, NE 68501. Wintz seeks authority to purchase the interstate operating rights and property of Denver. George L. Wintz, Jr., seeks authority to acquire control of said rights and property through the transaction. Wintz is purchasing the interstate operating rights of Denver that are contained in Certificates Nos. MC-127802 and MC-59485, and authority issued to Denver in MC-F-13723, which authorize the transportation, as a motor common carrier (1) over regular routes between Phoenix, AZ, Denver and Grand Junction, CO, Chicago, IL, Kansas City, KS, Auburn, Grand Island, Lincoln and Omaha, NE, and St. Paul, MN, and (2) over irregular routes transporting specified commodities between points in CO, IL, IA, IN, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI. Wintz presently holds no authority from this Commission. However, Wintz is affiliated with Wintz Motor Freight, Inc., which is authorized to operate as a motor contract carrier, over irregular routes, in the States of IA, MN, NE, ND, SD, and WI, pursuant to permits in MC-144681 and sub-numbers thereunder, and authority granted in MC-F-13999F, and as a motor common carrier, over regular and irregular routes, in the States of AZ, CA, CO, IA, IL, IN, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI, pursuant to authority granted in MC-144822, MC-F-13360, MC-F-13362, MC-F-13998F, and MC-F-13999F. Condition: The purchase of $3,945,000 agreed between the parties for the equipment that Wintz would acquire at permanent date is greater than the net book value as shown in Exhibit C-2 of the application. Under such circumstances the purchase price for the equipment must be substantiated by an appraisal report made by a disinterested qualified appraiser in accordance with Instruction 20(a)(2) of the Uniform Systems of Accounts. Accordingly, as a condition to our approval of the transaction, we will require Wintz to submit such appraisals.

Note.—(1) This notice does not purport to be a complete description of the operating rights of the carriers involved. (2) By decision served March 14, 1980, Wintz Motor Freight, Inc., was granted temporary authority to lease the operating rights and property of Denver-Midwest Motor Freight, Inc. By petition filed January 22, 1981, applicants requested leave to substitute Wintz Transportation Co., as applicant, in lieu of Wintz Motor Freight, Inc.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-9492 Filed 3-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the

Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

Dated: March 23, 1981.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC-F-14582, filed February 24, 1981. METRO HAULING INC. (Metro) (20848 77th Avenue, South Kent, WA 98031)—PURCHASE—CROCKER TRUCK LINES, INC. (Crocker) (1410 North Howe, Spokane, WA 99211). Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. Metro seeks authority to purchase the interstate operating rights of Crocker Truck Lines, Inc. Michael Chimenti and Nick Jewett, the majority stockholders of Metro, also seeks authority to acquire control of said rights through the transaction. Metro seeks authority to purchase the interstate operating rights awarded to Crocker in MC-F-14157, which rights are evidenced by Certificate No. MC-141441 (Sub-No. 3), which authorizes the transportation, of brick, ground fire clay, flue lining, sewer pipe, and drain tile, between the facilities of Interpace Corporation at or near Mica, WA, on the one hand, and, on the other, points in Idaho, Montana, Oregon, and Utah.

Notes.—Application for TA has been filed.

MC-F-14592, filed December 9, 1980. FREDERICK G. LENERTZ and LAWRENCE L. LENERTZ (Individuals) (P.O. Box 479, South St. Paul, MN 55075)—CONTINUANCE IN CONTROL—LENERTZ, INC. OF IOWA (Lenertz) (1004 29th Street, Sioux City, IA 51104). Representative: Andrew R. Clark, 1800 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. Individuals seek authority to continue in control of Lenertz upon the institution by Lenertz of operations, in interstate or foreign commerce, as a motor contract carrier. The individuals are the sole stockholders of Lenertz and they also hold 50 percent each of the stock of Lenertz, Inc., a motor common carrier operating under authority issued in MC-142715 and sub-numbers thereunder. Lenertz filed a directly related application seeking authority to transport automotive parts and accessories, between points in the United States, under a continuing contract with Midwest Wholesale Tire of Mendota, MN. This application was assigned docket number MC-151154 (Sub-No. 1F), and was published in the **Federal Register** on January 6, 1981.

MC-F-14593, filed March 11, 1981. DRIVEAWAY INC. (Driveaway) (3600 N.W. 82nd Avenue, Miami, FL 33166)—CONTROL—F. J. BOUTELL DRIVEAWAY CO., INC. (Boutell) (705 South Dort Hwy., P.O. Box 308, Flint, MI 48501). Representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Driveaway, a non-career, seeks authority to acquire control of the interstate operating rights and property of Boutell through the purchase by Driveaway of all the issued and outstanding capital stock of Boutell. Ryder System, Inc. (Ryder), a non-carrier and publicly held corporation, is the sole stockholder of Driveaway and seeks to acquire control of Boutell through the transaction. Boutell is authorized to operate as a motor common carrier, pursuant to certificates issued in MC-3468 and sub-numbers thereunder, which authorize the transportation, as summarized, of (1) motor vehicles, between specified points in the United States east of the Mississippi River, (2) motor vehicles from railheads in the eastern United States to dealer destinations, and (3) imported vehicles, from eastern ports to dealer destinations in the United States. This does not purport to be a complete description of the operating rights involved. Ryder is in control of the following motor carriers: (1) Complete Auto Transit, Inc., a motor contract carrier transporting motor vehicles, over irregular routes, in both initial and secondary movements pursuant to permits issued in MC-49368 and sub-numbers thereunder; (2) Janesville Auto Transport Company, a motor contract carrier, transporting motor vehicles, in both initial and secondary movements, pursuant to permits issued in MC-119642 and sub-numbers thereunder; (3) M&G Convoy, Inc., a motor common carrier transporting motor vehicles, over irregular routes, in both initial and secondary movements, pursuant to certificates issued in MC-20722 and sub-numbers thereunder; (4) Customized Parts Distribution, Inc., a motor contract carrier transporting motor vehicle parts and accessories, liquid argon, nitrogen and oxygen, pursuant to permits issued in MC-136291 and sub-numbers thereunder; (5) The Sentinel Star Express Company, d/b/a/ Jack Rabbit Express, a motor common carrier transporting general commodities, with the usual exceptions, in limited weight shipments pursuant to certificates issued in MC-125674 and sub-numbers thereunder; (6) RDR, Inc., a motor contract carrier transporting such commodities as are dealt in by grocery houses and drug stores pursuant to permits issued in MC-149011 and sub-numbers thereunder; (7) RPD, Inc., a motor contract carrier transporting motor vehicle parts, pursuant to permits issued in MC-136051 and sub-numbers thereunder; (8) DPD, Inc., a motor contract carrier, transporting a variety of specified commodities pursuant to permits issued in MC-140902 and sub-numbers thereunder. Condition: Ryder shall continue to be required, as previously subjected in MC-F-12809, served November 23, 1976, from time to time to file such special accounting and others reports as may be required so that its relationship with carriers under its control may be observed and jurisdiction will be reserved in this respect for the imposition of such further requirements as may be necessary. Impediment: Duplications exist between the operating rights held by M & G Convoy, Inc., and those held by Boutell. Applicants requested authority to continue holding the duplicating rights. However, in order to comply with the Commission's regulations at 49 CFR 1134.51, applicants are required to submit, in greater detail, cogent and acceptable reasons why the duplicate operating rights under common control should be permitted to continue or submit a plan and timetable for the elimination of such duplications.

Note.—Applicant also seeks authority to merge, at its option, Boutell into Driveaway within a period of 2 years after consummation of the stock purchase. We are advising applicants that, after consummation of the control application, if they wish to seek authority to merge Boutell into Driveaway,

they must file an appropriate application under 49 U.S.C. 10926.

MC-F-14585, filed February 26, 1981. WEAVER TRUCKING CO., INC. (Weaver) (P.O. Box 45, Eton, GA 30724)—PURCHASE (PORTION)—W & L MOTOR LINES, INC. (W&L) (P. O. Box 3467, Hickory, NC 28601). Representatives: Archie B. Culbreth and John P. Tucker, Jr., 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Weaver seeks authority to purchase a portion of the interstate operating rights of W&L. Robert J. Weaver and E. Ann Weaver, the sole and equal shareholders of Weaver, seek authority to acquire control of said portion of the operating rights of W&L through this transaction. Weaver seeks authority to purchase W&L's Certificate No. MC-123872 (Sub-No. 78), which authorizes the transportation as a motor common carrier, over irregular routes, of *"carpets and rugs,* and *materials and supplies used in the installation* thereof, (except in bulk), from points in Bartow, Catoosa, Chattooga, Floyd, Gilmer, Gordon, Murray, Rabun, Troup, Walker and Whitfield Counties, GA, to points in IA, KS, MN, NE, ND, SD, and WI". Weaver is authorized to operate as a contract carrier pursuant to Permit Nos. MC-146701, Sub-Nos. 1F, 2F, 3F and 8F which authorize the transportation of specific commodities under continuing contracts, basically between the Southeastern U.S., on the one hand, and, on the other, the remainder of the U.S., particularly the Midwest. Impediment: Applicant states that no duplicating authority is being retained. However, Commission records indicate that W & L holds Certificate No. MC-123872 (Sub-No. 70) which authorizes, as pertinent, the transportation of carpet and rugs, and materials and supplies used in the installation of carpets and rugs, from Lyerly, GA, to points in IA, KS, and NE. This authority duplicates the authority to be transferred because Lyerly is located in Chattooga County, GA. Therefore, approval of this transaction is conditioned upon applicants submitting a plan to eliminate the split of duplicating authority.

Note.—Application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-9403 Filed 3-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 C.F.R. 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 F.R. 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 F.R. 80109.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g.s., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP5-78

Decided: March 19, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 151978, filed February 2, 1981. Applicant: ASSOCIATED VAN AND STORAGE CO., INC. 3402 SW 11 St., Lawton, OK 73505. Representative: Kenneth M. Hughen, 111 Camelot Drive, Lawton, OK 73501. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-9440 Filed 3-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we fine, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action sigificantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY4–38

Decided: March 24, 1981.

By the Commission Review Board 2, Members Carleton, Fisher, and Williams.

MC 917, filed March 3, 1981. Applicant: TURNBULL TRUCKLINE, INC., R.R. One, Axtell, KS 66403. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-9437 Filed 3-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY–4–37

Decided: March 24, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 3717 (Sub-1), filed March 3, 1981. Applicant: SERVICE WAREHOUSE COMPANY, INC., 112 Poinier St., Newark, NJ 07114. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934 (201) 435–7140. Transporting *general commodities* (except classes A and B explosives), between points in Hudson County, NJ, on the one hand, and, on the other, points in the U.S.

MC 28657 (Sub-5), filed March 12, 1981. Applicant: I–V COACHES, INC., 1600 Bayou St., Vincennes, IN 47591. Representative: Harry J. Harman, 700 Harrison Bldg., 143 West Market St., Indianapolis, IN 46204 (317) 634–4242. Transporting *passengers and their baggage* in the same vehicle with passengers in special, charter, and round trip operations, in sightseeing and pleasure tours, (1) between points in Bartholomew, Boone, Brown, Clay, Crawford, Dubois, Greene, Hamilton, Hancock, Hendricks, Henry, Jackson, Johnson, Madison, Marion, Monroe, Montgomery, Morgan, Owen, Parke, Perry, Posey, Putnam, Rush, Shelby, Spencer, Tipton, Vanderburgh, Vermillion, Vigo, Warrick, and Washington Counties, IN, on the one hand, and, on the other, points in the U.S., (including AK but excluding HI), and (2) between points in Breckinridge, Daviess, Hancock, Hardin, Henderson,

Hopkins, McLean, Muhlenberg, Union, and Webster Counties, KY, on the one hand, and, on the other, points in the U.S., (including AK but excluding HI), restricted in (1) above, to passengers having a prior movement by air or rail carrier.

MC 61137 (Sub-1), filed March 12, 1981. Applicant: FRANKLIN A. ZAHN, d.b.a. F. A. ZAHN TRUCKING CO., 145A Gordon Rd., Matawan, NJ 07747. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048 (212) 466-0220. Transporting (1) *ores and minerals*, (2) *clay, concrete, glass or stone products*, and (3) *chemicals and related products*, between points in NJ, on the one hand, and, on the other, points in PA, CT, NY, DE, MD, VA, and DC.

MC 123407 (Sub-672), filed March 11, 1981. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: Sterling W. Hygema (same address as applicant), (219) 926-7575. Transporting *furniture and fixtures*, between points in Dane County, WI, on the one hand, and, on the other, points in the U.S.

MC 134477 (Sub-439), filed March 9, 1981. Applicant: SCHANNO TRANSPORTATION, INC., 5 W. Mendota Rd., West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164 (612) 457-9712. Transporting *general commodities* (except classes A and B explosives), between the facilities of Northeastern Pennsylvania Shippers' Cooperative Association, Inc. and its members, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 146927 (Sub-20), filed March 9, 1981. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210 (703) 525-3042. Transporting *general commodities* (except classes A and B explosives), between the facilities of American Can Company, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 147547 (Sub-14), filed March 9, 1981. Applicant: R & D TRUCKING COMPANY, INC., Church Rd., Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37217 (615) 244-8100. Transporting *such commodities* as are dealt in or used by manufacturers of concrete products, between points in Davidson County, TN, on the one hand, and, on the other, points in the U.S.

MC 151087 (Sub-5), filed March 12, 1981. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Hwy, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603, (312) 236-9375. Transporting *metal products*, between points in IL, IN, IA, KY, MD, MI, MN, MO, NJ, NY, OH, PA, TN, WV, and WI.

MC 152187 (Sub-1), filed March 9, 1981. Applicant: GORDON TRUCKING, INC., 2205 Pacific Hwy E, Tacoma, WA 98424. Representative: Kenneth R. Mitchell (same address as applicant), (206) 922-0110. Transporting *petroleum, natural gas and their products*, between points in AZ, CA, ID, MT, NV, OR, UT and WA.

MC 154597 (Sub-1), filed March 3, 1981. Applicant: HUELLINGHOFF BROS., INC., R.R. 2, Box 166, Union, MO 63084. Representative: Anthony J. Huellinghoff (same address as applicant), (314) 636-8135. Transporting *petroleum, natural gas and their products*, between points in Madison and Saint Clair Counties, IL, on the one hand, and, on the other, points in MO.

Volume No. QPY4-39

Decided: March 24, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 108207 (Sub-565), filed March 10, 1981. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant), (214) 428-7661. Transporting *chemicals and related products*, between points in Pinal County, AZ, on the one hand, and, on the other, points in TX, OK, KS, and OH.

MC 119777 (Sub-527), filed March 11, 1981. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431, (502) 821-5784. Transporting *general commodities* (except classes A and B explosives), between points in Warren County, MO, on the one hand, and, on the other, points in the U.S.

MC 119777 (Sub-528), filed March 11, 1981. Applicant: LIGON SPECIALIZED HAULER, INC. Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities*, (except classes A and B explosives), between points in Pike County, MO, on the one hand, and, on the other, points in the U.S.

Note.—Applicant intends to tack the authority herein within its presently authorized regular route operations.

MC 123407 (Sub-670), filed March 10, 1981. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: Sterling W. Hygema (same address as applicant), (219) 926-7575. Transporting *pulp, paper and related products*, between points in WI, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 125527 (Sub-5), filed March 13, 1981. Applicant: BUFORD OWENS AND JERRY C. OWENS, d.b.a. OWENS BROS. TRUCKING & LIME CO., P.O. Box 376, Bernie, MO 63822. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102, (314) 636-2321. Transporting *chemicals and related products*, between points in AR, IL, MO, KY, TN, LA and MS.

MC 127187 (Sub-54), filed March 4, 1981. Applicant: FLOYD DUENOW, INC., P.O. Box 86, Savage, MN 55378. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd. Suite 307, Edina, MN 55424 (612) 927-8855. Transporting *lumber and wood products*, between points in WA, OR, ID, MT and SD, on the one hand, and, on the other, points in IL, IN, IA, MN, MI, MO NE, ND, OH, SD and WI.

MC 133897 (Sub-3), filed March 4, 1981. Applicant: MILLVILLE TRUCKING COMPANY, INC., Orange St., P.O. Box 181, Millville, NJ 08332. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893-4924. Transporting *sand, gravel and clay*, between points in the U.S., under continuing contract(s) with Whitehead Brothers Company, Inc., of Florham Park, NJ.

MC 143267 (Sub-118), filed March 10, 1981. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th Street NW., Washington, D.C. 20005 (202) 223-6680. Transporting *building and construction materials*, between points in the U.S.

MC 154557, filed March 5, 1981. Applicant: LARRY CARPENTER, 8830 Center Hill Rd., Collierville, TN 38017. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, TN 38103. Transporting *ores and minerals*, between points in DeSoto County, MS, on the one hand, and, on the other, points in Shelby, Fayette, Hardeman, McNairy and Hardin Counties, TN.

MC 154667, filed March 11, 1981. Applicant: B. I. TRANSPORTATION, INC., P.O. Box 691, Burlington, NC 27215. Representative: J. Franklin Fricks, Jr. (same address as applicant), (919) 228-2239. Transporting *general commodities*

(except classes A and B explosives), between points in the U.S., under continuing contract(s) with Warner Lambert Company, of Morris Plains, NJ.

MC 154717, filed March 9, 1981. Applicant: FRANK & RUTH McARDLE, d.b.a. McARDLE MOBILE HOMES, a Partnership, R. R. #4, Danville, IL 61832. Representative: Frank McArdle (same address as applicant), (217) 267-2546. Transporting *transportation equipment*, between points in IL and IN.

Volume NO OPY5-15

Decided: March 13, 1981.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 409 (Sub-78), filed March 3, 1981. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Sutton, NE 68979. Representative: Scott T. Robertson, P.O. Box 94748, Lincoln, NE 68509, (402) 476-8062. Transporting *commodities in bulk* between points in AR, IA, IL, IN, KS, LA, MI, MN, MO, MT, NE, ND, NM, CO, OK, SD, TX, WV, WI, and WY.

MC 18099 (Sub-6), filed February 19, 1981. Applicant: HERTHA HELDT, ROLAND HELDT, AGNES HELDT, DAVID HELDT, GRACE E. KELLEY, RUTH H. HALL AND MARY ANN DAVIS, a Partnership, d.b.a. HELDT BROS. TRUCKS, P.O. Drawer 1130, Falfurrias Road, Alice, TX 78332. Representative: James R. Boyd, 1000 Perry Brooks Bldg. 8th & Brazos, Austin, TX 78701 (512) 476-8066. Transporting (1) *Mercer commodities*, (2) *earth drilling machinery*, and (3) *those commodities* which because of their size or weight require the use of special handling or equipment, between points in CO, LA, MS, NM, OK, TX, and WY.

MC 114848 (Sub-66), filed February 23, 1981. Applicant: WHARTON TRANSPORT CORPORATION, 1498 Channel Ave., P.O. Box 13068, Memphis, TN 38113. Representative: Robert T. Wharton (same address as applicant), 901-948-4536. Transporting (1) *food and related products* from points in St. Bernard Parish, LA, to points in TN, and (2) *clay, concrete, glass or stone products* from points in Caldwell County, KY, to points in Weakley County, TN.

MC 117589 (Sub-75), filed February 27, 1981. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Ave. S., Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104, (206) 622-3220. Transporting *food and related products* between points in WA, OR, ID, UT, CO, WY, NM, MT, and NE.

MC 121718 (Sub-7), filed March 2, 1981. Applicant: MURPHY BONDED WAREHOUSE, INC., P.O. Box 3722, Shreveport, LA 71103. Representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005, 504-835-4724. Transporting *general commodities* (except classes A and B explosives), between points in Caddo and Bossier Parishes, LA, and points in AR, LA, and TX.

MC 127539 (Sub-86), filed March 4, 1981. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Ave. E., Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104, 206-622-3220. Transporting *such commodities* as are dealt in or used by grocery, drug and variety stores and food business and manufacturing houses, between those points in the U.S. in and west of MN, WI, IL, MO, AR, and LA.

MC 128008 (Sub-2), filed March 2, 1981. Applicant: VALLEY CARTAGE, INC., 960 Spruce, Terre Haute, IN 47807. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204 (317) 635-2339. Transporting (1) *food and related products*, between points in the U.S., under continuing contract(s) with Brentlinger Distributing Co., Inc., and Pfeifer Distributing Co., Inc., both of Terra Haute, IN; Lowry Wholesale Beverage, Inc., of Clinton, IN; Sullivan Co. Distributing Inc., of Sullivan, IN; and Leo J. Murphy Co., Inc., of Brazil, IN; and (2) *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Midland Glass Company, Inc., of Cliffwood, NJ.

MC 135658 (Sub-8), filed February 23, 1981. Applicant: ROCK RIVER CARTAGE, INC., R.R. #2, Box 430, Rock Falls, IL 61071. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, 217-544-5468. Transporting *petroleum and petroleum products* (a) between points in Dubuque and Scott Counties, IA, on the one hand, and, on the other, points in IL and WI, and (b) between points in Whiteside County, IL, on the one hand, and, on the other, points in IA and WI.

MC 136268 (Sub-29), filed March 5, 1981. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Ave., Monroe, WI 53566. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703 (608) 256-7444. Transporting (1) *pulp, paper and related products*, and (2) *printed matter*, between points in Green County, WI, on the one hand, and, on the other, points in the U.S.

MC 136679 (Sub-1), filed March 4, 1981. Applicant: TUKWILA KENT TRUCKING/BECKER TRANSFER, INC., 12677 E. Marginal Way S., Seattle, WA 98168. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055 (206) 228-3807. Transporting *general commodities* (except classes A and B explosives), between points in WA on and west of U.S. Hwy 97. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications for common control to team 5 Room 6370.

MC 145088 (Sub-9), filed February 27, 1981. Applicant: S & T TRUCKLOAD, INC., 2527 N.E. 28th St., Fort Worth, TX 76106. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102 (817) 335-2505. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of picture tubes, television sets, and home entertainment systems, between points in PA and IN, on the one hand, and, on the other, points in AR, CA, GA, and TX.

MC 145219 (Sub-22), filed February 17, 1981. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 500, Camden, SC 29020. Representative: B. M. Shirley (same address as applicant) (803) 432-1400. Transporting *dental, hospital, medical and surgical supplies*, between points in Tulsa County, OK, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, NE, KS, OK, and TX.

MC 146109 (Sub-1), filed March 5, 1981. Applicant: B & E MOBILE HOME SERVICE, INC., 115 Valley View Road, North Redwood, MN 56275. Representative: John H. Schnobrich, 315 South Washington, Redwood Falls, MN 56283 (507) 637-5721. Transporting (1) *transportation equipment* and (2) *lumber and wood products*, between points in the U.S., under continuing contract(s) with Homera, Inc., of Tracy, MN, and Schult Mobile Home Corp., of Redwood Falls, MN.

MC 147198 (Sub-11), filed February 10, 1981. Applicant: P. & E. I. TRUCK LINES, INC., P.O. Box 175, Rossville, IL 60963. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601 (312) 332-5106. Transporting *such commodities* as are dealt in or used by agricultural supply houses, between points in IL, IA, WI, MO, and IN.

MC 147259 (Sub-12), filed March 5, 1981. Applicant: CHURCHILL TRANSPORTATION, INC., 2455 24th St., Detroit, MI 48216. Representative: Richard E. VanWinkle, 16901 Van DamRoad, South Holland, IL 60473 (312) 596-9200. Transporting (1) *metal products* and (2) *rubber and plastic products*, between points in OH, on the one hand, and, on the other, points in the U.S.

MC 150008 (Sub-2), filed February 17, 1981. Applicant: KUELLA, INCORPORATED, Route 2, King City, MO 64463. Representative: Lee Reeder and Michael A. Knepper, 1221 Baltimore Ave., Suite 310, Kansas City, MO 64105 (816) 842-8874. Transporting *grass seed and fertilizer products*, between points in the U.S., under continuing contract(s) with Roll'n Grow Lawns, a Division of Memorial Heritage, Inc., of Kansas City, MO.

MC 150239 (Sub-5), filed March 6, 1981. Applicant: PACESETTER TRANSPORT DIVISION OF EDGEMERE TERMINALS, INC., 804 Stansbury Rd., Baltimore, MD 21222. Representative: R. Emery Clark, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005 (202) 296-3555. Transporting (1) *metal products*, and (2) *ores and minerals*, between those points in the U.S., in and east of TX, AR, MO, IA, and MN.

MC 150578 (Sub-13), filed February 20, 1981. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: E. Lewis Coffey (same address as applicant) 214-681-0454. Transporting (1) *metal products*, (2) *rubber and plastic products*, and (3) *building materials*, between points in TX, on the one hand, and, on the other, points in the U.S.

MC 150828 (Sub-1), filed March 5, 1981. Applicant: UNIQUE FREIGHT LINES, CO., INC., 18 Hackensack Ave., Kearny, NJ 07032. Representative: Pamela Selzer, 529 Park Ave., Scotch Plains, NJ 07076 (201) 589-8990. Transporting (1) *textile mill products*, and (2) *rubber and plastic products*, between points in Windham County, CT, on the one hand, and, on the other, points in the U.S.

Volume No. OPY 5-16

Decided: March 13, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 150828 (Sub-2), filed March 5, 1981. Applicant: UNIQUE FREIGHT LINES, CO., INC., 18 Hackensack Ave., Kearny, NJ 07032. Representative: Pamela Selzer, (same address as applicant), (201) 589-8990. Transporting *such commodities* as are dealt in or used by department stores, between New York, NY, on the one hand, and, on the other, points in the U.S.

MC 150949 (Sub-9), filed March 3, 1981. Applicant: NFI, INC., Box 664, S. Interstate #35, Waxahachie, TX 75165. Representative: Richard M. Parnicky, 71 West Park Ave., Vineland, NJ 08360, 609-691-7000. Transporting *Machinery*, between points in Jefferson County, AR, on the one hand, and, on the other, points in TX. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application for common control to Team 5 Room 6370.

MC 151609 (Sub-2), filed March 6, 1981. Applicant: B. K. LEASING CO., Dutch Mill Rd., Franklin, NJ 08322. Representative: David Earl Tinker, 1000 Connecticut Avenue, NW., Suite 1112, Washington, DC 20036 (202) 887-5868. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Progresso Quality Foods, a Division of Ogden Food Products Corporation, of Vineland, NJ.

MC 151879, filed March 2, 1981. Applicant: OWEN WEINBERG, Rural Route No. 1, Box 52, Mt. Vernon, SD 57363. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101 (605) 339-3629. Transporting *food and related products*, between points in SD, on the one hand, and, on the other, points in IA, MN, NE, and WI.

MC 151899 (Sub-2), filed February 23, 1981. Applicant: BLACKHAWK EXPRESS, INC., 89 North Main St., Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603 312-782-8880. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of felt, between points in the U.S., under continuing contract(s) with The Felters Company of Millbury, MA.

MC 153509 (Sub-1), filed March 2, 1981. Applicant: KENTUCKY DISPATCH, INC., 3303 Camp Ground Rd., Louisville, KY 40216. Representative: James B. Murphy, Suite 102, Interchange Bldg., 835 West Jefferson St., Louisville, KY 40202 502-587-0789. Transporting (1)*metal products*, (2) *rubber and plastic products*, (3) *machinery*, (4) *textile mill products*, and (5) *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with American Can Company of Greenwich, CT, and Lexington, KY, Jaggers Equipment Co., Inc., American Cellophane & Plastics Co., and W. M. Cissell Mfg. Co., all of Louisville, KY, Union Underwear Company, Inc., of Bowling Green, KY, and Franklin Chemical Industries, Inc., and its subsidiaries, of Columbus, OH.

MC 154269, filed February 20, 1981. Applicant: ROBERT R. HAZEN, d.b.a. BOB HAZEN TRUCKING, 1172 East Drinker St., Dunmore, PA 18512. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507 (717) 343-2126. Transporting *petroleum and petroleum products*, between points in Lackawanna County, PA, on the one hand, and, on the other, points in NJ.

MC 154388, filed February 23, 1981. Applicant: K & D TRANSFER, INC., 826 Jersey Ave., Jersey City, NJ 07302. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239-4610. Transporting *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Poggenpohl U.S.A. Corporation, of Teaneck, NJ.

MC 154389, filed February 23, 1981. Applicant: PORTER TRANSFER CO., INC., P.O. Box 110544, Nashville, TN 37211. Representative: Robert L. Baker, Sixth Fl., United American Bank Bldg., Nashville, TN 37219, (615) 255-6575. Transporting *general commodities* (except classes A and B explosives), between points in Cheatham, Davidson, Robertson, Rutherford, Sumner, Williamson and Wilson Counties, TN.

MC 154429 (Sub-1), filed March 3, 1981. Applicant: COMPASS TRUCKING CORP., 53 Hook Rd., Bayonne, NJ 07002. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Compass 1 Distribution Corp., of Bayonne, NJ.

MC 154449, filed March 2, 1981. Applicant: BASEL FARMS, INC., 4616 LaRue-Prospect Rd., Marion, OH 43302. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224-3161. Transporting *chemicals and related products*, between Columbus, OH, and points in Marion County, OH, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN,

MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 154499, filed March 2, 1981. Applicant: BERK-HAUL, INC., 2764 Mauvilla Dr., Mobile, AL 36606. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, 614-228-1541. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Berkley Small, Inc., of Mobile, AL.

MC 154508, filed March 3, 1981. Applicant: LIMESTONE PRODUCTS, INC., P.O. Box 618, Portland, IN 47371. Representative: Alki E. Scopelitis, 1301 Merchants Plaza Indianapolis, IN 46204, (317) 638-1301. Transporting *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Decatur Ready-Mix Corp., of Decatur, IN.

MC 154529, filed March 4, 1981. Applicant: LEWIS MCCULLOUGH AND JERRY VASQUEZ, d.b.a. NORTHWEST POTATO TRUCKING DIVISION, P.O. Box 26, Warden, WA 98857. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453-0312. Transporting (1) *fertilizer*, between points in Grant and Franklin Counties, WA, on the one hand, and, on the other, points in WA and ID, and (2), *building materials*, between points in ID, OR, and MT, on the one hand, and, on the other, points in Grant, Franklin and Adams Counties, WA.

MC 154549, filed February 10, 1981. Applicant: CITY OF EL PASO PUBLIC TRANSIT ADMINISTRATION, 2211 E. Missouri, Suite W-111, El Paso, TX 79903. Representative: Karl F. Tesch (same address as applicant), (915) 543-6367. Transporting *passengers and their baggage*, in special or charter operations, beginning and ending at points in El Paso County, TX, and extending to points in Dona Ana County, NM.

MC 154579, filed March 6, 1981. Applicant: A AND K TRUCKING CO., 204 River Rd., Burlington, KY 41005. Representative: Michael T. McKinney, 546 Florence Pike, P.O. Box 588, Burlington, KY 41005, (606) 586-9955. Transporting (1) *coal and coal products*, and (2) *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Boone Ready Mix Concrete Co., of Burlington, KY.

MC 154678, filed February 9, 1981. Applicant: HAYNES MOTOR LINES, INC., 8475 Florida Blvd., Baton Rouge, LA 70806. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza P.O. Box 22567, Jackson, MS 39205, 601-948-5711. Transporting *general commodities* (except classes A and B explosives), between points in LA, on the one hand, and, on the other, Houston, Dallas, and Fort Worth, TX, Memphis, TN, Atlanta, GA and points in Pulaski County, AR.

Volume No. OPY 5-18

Decided: March 17, 1981.

By the Commission, Review Board No. 3 Members Krock, Joyce, and Dowell.

MC 29328 (Sub-10), filed March 9, 1981. Applicant: SCHIEK MOTOR EXPRESS, INC., 90 Casseday Ave., Joliet, IL 60432. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782-8880. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of toilet preparations, beauty and health care products, between points in Will and Cook Counties, IL, on the one hand, and, on the other, points in MI, IN, OH, KY, MO, IA, MN, WI, PA, WV, TN, AL, AR, OK, KS, ND, SD, LA, MS, and NJ.

MC 30618 (Sub-22), filed March 2, 1981. Applicant: HENRY V. RABOUIN, INC, P.O. Box 204, Pittsfield, MA 01201. Representative: Sherwood Guernsey, 57 Wendell Ave., Pittsfield, MA 01201, (413) 499-3810. Transporting *commodities in bulk*, between points in the U.S.

MC 64808 (Sub-49), filed March 5, 1981. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Ave., Fairmont, WV 26554. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471-1800. Transporting *food and related products*, between those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 64808 (Sub-50), filed March 6, 1981. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Ave., Fairmont, WV 26554. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219, 412-471-1800. Transporting *clay, concrete, glass or stone products*, between those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 96878 (Sub-7), filed March 10, 1981. Applicant: CONSOLIDATED TRANSFER and WAREHOUSE CO., INC., 1251 Taney, North Kansas City, MO 64116. Representative: Alfred L. King (same address as applicant), (816) 221-3411. Transporting *metal products*, between points in MO, KS, OK, TX, AR, LA, MS, AL, TN, KY, IL, IN, OH, PA, MI, MN, IA, NE, CO, FL, and CT, on the one hand, and, on the other, points in the U.S.

MC 107478 (Sub-87), filed March 9, 1981. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, 1791 Westchester Drive, High Point, NC 27261. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014, 301-986-1410. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with The Nestle Company, Inc., of White Plains, NY.

MC 113658 (Sub-46), filed March 6, 1981. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport St., Commerce City, CO 80022. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036, 202-223-5900. Transporting *General commodities*, (except classes A and B explosives), (a) between points in Los Angeles, Riverside, Orange, San Bernadino, and Ventura Counties, CA, Bergen, Essex, Union, Hudson, Middlesex and Passaic Counties, NJ, Kings, Queens, Bronx, Suffolk, Nassau, and Westchester Counties, NY, on the one hand, and, on the other, points in the U.S., and (b) between points in Cook, Lake, Du Page, Kane, Kendall, Will, and McHenry Counties, IL, Lake and Porter Counties, IN, on the one hand, and, on the other, points in AZ, CA, CO, ID, MA, MT, NV, NJ, NM, NY, OR, PA, TX, UT, WA, and WY.

MC 119908 (Sub-49), filed February 19, 1981. Applicant: WESTERN LINES, INC., 3523 North McCarty Dr., P.O. Box 1145, Houston, TX 77001. Representative: Wayne A. Premeaux (same address as applicant), 713-672-2481. Transporting *Metal products*, between Jefferson and Gonzales Counties, TX, and Rapides Parish, LA, on the one hand, and, on the other, points in AL, AR, GA, KS, LA, MO, MS, NM, OK, TN, and TX.

MC 123048 (Sub-493), filed March 9, 1981. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021-21st St., racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty St., Madison, WI 53703, 414-554-5400. Transporting *such commodities* as are dealt in or used by manufacturers and dealers of agricultural, industrial, and construction equipment, between points in the U.S.

MC 133689 (Sub-356), filed March 6, 1981. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St., NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, 612-457-6889. Transporting *foodstuffs and related products*, between points in Adams and Jay Counties, 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.

MC 133689 (Sub-358), filed February 17, 1981. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, (612) 457-6889. Transporting *such commodities* as are dealt in or used by craft and nursery stores, between those points in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, the facilities used by Franks Nursery Sales, Inc. at points in the U.S.

MC 139638 (Sub-9), filed February 24, 1981. Applicant: N. L. MONTGOMERY, INC., P. O. Box 626, Rocky Mount, VA 24151. Representative: D. R. Beeler, 1261 Columbia Ave., Franklin, TN 37064, (615) 790-2510. Transporting (1) *clay, concrete, glass or stone products*, between points in Sumter County, SC and Jefferson County, GA, on the one hand, and, on the other, points in VA and GA, and (2) *metal products*, between Roanoke County, VA, on the one hand, and, on the other, points in SC.

MC 140889 (Sub-12), filed March 2, 1981. Applicant: FIVE STAR TRUCKING INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114, (216) 781-1600. Transporting (1) *clay, concrete, glass or stone products*, and (2) *chemicals and related products* between points in the U.S., under continuing contract(s) with Foseco, Inc., of Brookpark, OH.

MC 146668 (Sub-7), filed February 11, 1981. Applicant: MICHAEL BENNETT TRUCKING, INC., 16 E. Amador, Seneca, KS 66538. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, (913) 233-9629. Transporting *dry fertilizer and dry feed ingredients*, between points in MO, AR, KS, NE, OK, TX, and IA.

MC 147259 (Sub-11), filed February 17, 1981. Applicant: CHURCHILL TRANSPORTATION, INC., 2455 24th St., Detroit, MI 48216. Representative: Richard E. VanWinkle, 16901 VanDam Road, South Holland, IL 60473, (312) 596-9200. Transporting *transportation equipment*, between points in FL, on the one hand, and, on the other, points in IL, MI, WI, GA, and TX.

MC 148429 (Sub-2), filed February 17, 1981. Applicant: KAISER TRUCKING, INC., 1000 E. 5th Street, Winner, SD 57580. Representative: James W. Olson, P. O. Box 1552, Rapid City, SD 57709, (605) 342-7090. Transporting *dry fertilizer and agricultural lime*, between Minneapolis, MN, Council Bluffs and Sioux City, IA, on the one hand, and, on the other, points in Tripp, Gregory, Charles Mix, and Hutchinson Counties, SD.

Volume No. OPY5-19

Decided: March 17, 1981.

By the Commission Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 141459 (Sub-21), filed March 9, 1981. Applicant: A.G.S. ENTERPRISES, INC., 809 Columbia Blvd., Litchfield, IL 60610. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603, 312-236-9375. Transporting *metal products*, between points in the U.S.

MC 142559 (Sub-167), filed March 9, 1981. Applicant: BRTOOKS TRANSPORTATION, INC., 3830 Kelly Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *rubber and plastic products*, between points in the U.S.

Note.—Applicant is relying on traffic studies rather than shipper support for the authority sought.

MC 143739 (Sub-47), filed March 10, 1981. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Leonard K. Sackson (same address as applicant), (507) 465-3235. Transporting *food and related products*, between points in Sioux County, IA, on the one hand, and, on the other, points in CA, OR, and WA.

MC 143988 (Sub-16), filed March 10, 1981. Applicant: J. W. TATE, d.b.a. JAMAR TRUCKING CO., P.O. Box 18970, Memphis, TN 38118. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137, (901) 767-5600. Transporting *chemicals and related products* between the facilities used by Helena Chemical Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 145729 (Sub-5), filed March 3, 1981. Applicant: SYMPLEX LEASING, INC., 90 East 5th St., Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572-5551. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Synergestic Pigment Corporation, of Bridgewater, NJ.

MC 146448 (Sub-26), filed March 13, 1981. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Bldg., McLean, VA 22101, (783) 893-4924. Transporting *general commodities*, between points in the U.S., under continuing contract(s) with Combustion Engineering, Inc., of Stamford, CT. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

MC 146568 (Sub-11), filed March 3, 1981. Applicant: PHOENIX BIRD, INC., 1 Neshaminy Plaza, Suite 118, Street Rd. and Bristol Pike, Cornwells Heights, PA 19020. Representative: Joseph M. Roberts, 1730 M Street NW., Suite 501, Washington, DC 20036, 202-296-2900. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with ITOFCA, Inc., of Chicago, IL.

MC 146849, filed March 11, 1981. Applicant: OMAR TRUCKING, INC., 3045 E. Bloomfield Rd., Phoenix, AZ 85032. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264-4891. Transporting (1) *pulp, paper and related products*, and (2) *rubber and plastic products*, between points in the U.S., under continued contract(s) with Malanco of California, Inc., of Visalia, CA.

MC 147318 (Sub-5), filed March 9, 1981. Applicant: DEEP SOUTH TRUCKING, INC., Hwy 11 North, P.O. Box 304, Purvis, MS 39475. Representative: Kent F. Hudson, 202 Main St., P.O. Box 696, Purvis, MS 39475, 601-794-8003. Transporting *metal products*, between points in the U.S. under continuing contract(s) with G & S International, of Houston, TX.

MC 150388 (Sub-3), filed February 19, 1981. Applicant: BOSS TRANSPORTATION CO., INC., P.O. Box 40977, Memphis, TN 38104. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, 617-742-3530. Transporting *food and related products*, between points in MA and PA, on the one hand, and, on the other, points in the U.S.

MC 150598 (Sub-2), filed March 10, 1981. Applicant: WILLIAM J. MUNGER, d.b.a. MUNGER TRUCK LINE, P.O. Box 115, Beattie, KS 66406. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, 913-234-0565. Transporting *food and related products*, between points in Atchison County, KA, on the one hand, and, on the other, points in the U.S. (except AZ, AR, CA, CO, MN, MT, NE, NM, ND, OK, SD, TN, TX, UT, and WY).

MC 151759 (Sub-2), filed March 10, 1981. Applicant: BULKWAY TRANSPORT CORPORATION, 350 Central Ave., Kearny, NJ 07032. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, DC

20005, 202-347-9332. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Fairmount Chemical Co., Inc., of Newark, NJ.

MC 152229 (Sub-3), filed March 9, 1981. Applicant: SALINAS TRUCK BROKERS, INC., P.O. Box 128 (730 Airport Blvd.), Salinas, CA 93202. Representative: Ben Ryburn (same address as applicant), (408) 757-2991. Transporting *general commodities* (except classes A and B explosives), between points in Hancock and Breckinridge Counties, KY, on the one hand, and, on the other, points in the U.S.

MC 152798 (Sub-1), filed March 4, 1981. Applicant: CHAS. E. LAWLER CO., INC., 320 Twelfth Ave., New York, NY 10001. Representative: Hyland Cooper, 225 W. 34th St., New York, NY 10122, (212) 244-6575. Transporting *general commodities*, (except classes A and B explosives), between points in Hudson County, NJ and New York, NY, on the one hand, and, on the other points in Nassau and Suffolk Counties, NY.

MC 154349, filed March 10, 1981. Applicant: VERNON MILLNG COMPANY, INC., Highway 18 West, P.O. Drawer R, Vernon, AL 35592. Representative: James W. Porter, 1725-28 City Federal Bldg., Birmingham, AL 35203, (205) 322-1744. Transporting (1) *food and related products*, and (2) *chemicals and related products*, between points in the U.S., under continuing contract(s) with International Minerals & Chemical Corporation, of Mundelein, IL.

MC 154559, filed March 6, 1981. Applicant: GREENVILLE BUS LEASING, INC., d.b.a. DALMATIAN COACH SERVICE, 3147 N. Pleasantburg Drive, Greenville, SC 29609. Representative: Harry A. Chapman, Jr., 111 Toy St., P.O. Box 10224, F.S., Greenville, SC 29603, (803) 233-4500. Transporting *passengers*, between points in SC, on the one hand, and, on the other points in the U.S., under continuing contract(s) Bob Jones University, of Greenville, SC.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-9438 Filed 3-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY-2-021

Decided March 24, 1981.

By the Commission Review Board No. 1, Members Parker Chandler, and Taylor. (Member Taylor not participating).

MC 151522 (Sub-2), filed March 12, 1981. Applicant: DIRECT MOTOR EXPRESS, INC., P.O. Box 142, Marion, AR 72364. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004, (202) 347-8862. Transporting, for or on behalf of the United States Government, *general commodities (except used household goods, hazardous or secret marterials, and sensitive weapons and munitions)*, between points in the U.S.

MC 154652, filed March 9, 1981. Applicant: PENNCO TRUCKING, INC., P.O. Box 129, New Cumberland, PA 17070. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, 301-797-6060. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 154692, filed March 13, 1981. Applicant: THE JOHNNY LINE, INC., 1129 Errol Parkway, Apopka, FL 32703. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. (404) 522-2322. As a broker of *general commodities* (except household goods), between points in the U.S.

Volume No. OPY-2-022

Decided March 24, 1981.

By the Commission Review Board No. 1, Members Parker, Chandler, and Taylor. (Member Taylor not participating.)

MC 45893 (Sub-17F), filed March 12, 1981. Applicant: ROSS TRUCK LINES, INC., 1010 North Pearl, Paola, KS 66071. Representative: Arthur J. Cerra, 2100 CharterBank Center, Kansas City, MO 64141 (816) 842-8600. Transporting *Chemicals and related products, food and related products, machinery, metal products and mercer commodities*, between points in Anderson, Coffey and Miami Counties, KS, on the one hand, and, on the other, points in the U.S.

MC 107012 (Sub-671), filed March 12, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN

46801. Representative: David D. Bishop (same address as applicant) (219) 429–2110. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, between points in Will County, IL, on the one hand, and, on the other, points in KS and NE.

MC 107913 (Sub-21F), filed March 9, 1981. Applicant: F & W EXPRESS, INC., 165 S. Parkway West, Memphis, TN 38109. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, TN 38108 (901) 525–6781. Transporting *metal products*, between points in Coahoma County, MS, on the one hand, and, on the other, AR, GA, TN, and TX.

MC 113362 (Sub-415), filed March 9, 1981. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912 (507) 433–3427. Transporting *such commodities* as are dealt in or used by retail and catalog department stores, between the facilities of Montgomery Ward & Company, and its subsidiaries, at points in the U.S., on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 124673 (Sub-60), filed March 12, 1981. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768 (512) 476–6083. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with (a) Terra Chemicals International, Inc., of Sioux City, IA, and (b) Jupiter Chemical Company, of Westlake, LA.

MC 130862 (Sub-1), filed March 11, 1981. Applicant: SCENIC TOURS, INC., 613 Oak Street, Aberdeen, WA 98520. Representative: Jeremy Khan, 1511 K Street, NW., Washington, DC 20005 (202) 683–3525. As a *broker*, at Aberdeen and Olympia, WA, in arranging for the transportation of passengers and their baggage, beginning and ending at Aberdeen and Olympia, WA, and extending to points in the U.S.

MC 135052 (Sub-38), filed March 13, 1981. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian Street, Indianapolis, IN 46204 (317) 639–4511. Transporting *Clay, concrete, glass or stone products* between points in Cleveland County, Davidson County and Mecklenburg County, NC, on the one hand, and, on the other, those points in the U.S., in and east of ND, SD, NE, KS, OK and TX.

MC 140943 (Sub-9), filed March 12, 1981. Applicant: K.T.S. TRANSPORT LTD., 505 Third Street Southwest, Room 1400, Calgary, Alberta, Canada T2P 3E6. Representative: Grant J. Merritt, 4444 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402 (612) 339–4546. Transporting *mercer commodities*, between points in MT, WA, and WY, on the one hand, and, on the other, points along the international boundary line between the United States and Canada adjacent to WA, ID, and MT.

MC 143493 (Sub-1), filed March 11, 1981. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080 (201) 757–3478. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Calgon Corporation, of Pittsburgh, PA.

MC 145042 (Sub-9), filed March 13, 1981. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Avenue, Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Building, Lansing, MI 48923 (517) 489–5724. Transporting *foundry supplies* between points in AL, FL, IL, IA, KS, MI, MN, MS, NC, OH, PA, SD, TN, WV and WI.

MC 145773 (Sub-8), filed March 13, 1981. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215 (614) 228–1541. Transporting *food and related products*, between points in Fulton County, OH, on the one hand, and, on the other, points in the U.S.

MC 151553, filed March 9, 1981. Applicant: CRUM TRANSPORT, INC., 2130 SE 5th Street, Ocala, FL 32670. Representative: Felix A. Johnston, Jr., 1030 E. Lafayette St., Suite 112, Tallahassee, FL 32301 (904) 877–7191. Transporting *citrus products* between points in FL.

MC 151703 (Sub-7F), filed March 11, 1981. Applicant: NORSUB, INC., R. D. No. 1, Box 317, Evans City, PA 16033. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222 (412) 471–3300. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under a continuing contract(s) with Elwin G. Smith Division of Cyclops, of Pittsburgh, PA.

MC 154633 (Sub-1), filed March 9, 1981. Applicant: JAMES BELL AND FREDDIE BELL, d.b. a. BELL & SONS TRUCKING COMPANY, Route 2, Box 65, Aberdeen, MS 39730. Representative: Kent F. Hudson, 202 Main St., P.O. Box 696, Purvis, MS 39475 (601) 794–8003. Transporting *metal products*, between points in the U.S. under continuing contract with Walker Manufacturing Company, a division of Tenneco Corporation, of Aberdeen, MS.

MC 154683, filed March 12, 1981. Applicant: COASTAL TRANSPORTATION, INC., P.O. Box 902, Pensacola, FL 32594. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301 (404) 522–2322. Transporting *pulp, paper or allied products, and printed matter* between points in Escambia County, FL, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, and TX.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-9490 Filed 3-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each

applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition. To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY-2-025

Decided: March 19, 1981.

By the Commission Review Board No. 1, Members Parker, Chandler, and Taylor. (Member Chandler not participating).

MC 58903 (Sub-1), filed March 11, 1980. Applicant: JERSEY DAILY EXPRESS, 66 Central Ave., East Orange, NJ 07018. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York NY 10048, (212) 466-0220. Transporting *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OPY5-21

Decided: March 19, 1981.

By the Commission, Review Board No. 3, members Krock, Joyce and Dowell.

MC 116048 (Sub-26), filed March 10, 1981. Applicant: JAMES ELWOOD QUINN, INC., P.O. Box 236, Beulaville, NC 28518. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301, (404) 522-2322. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 146548 (Sub-2), filed March 13, 1981. Applicant: TRUCKERS BROKERS, INC., d.b.a. BROKERS DISTRIBUTING, INC., 1020 Hall St. SW., Grand Rapids, MI 49503. Representative: Kathleen S. Eddy (same address as applicant), 616-241-6618. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 152379 (Sub-1), filed February 9, 1981. Applicant: AAVON MOVING AND STORAGE, INC., 1900 Wyott Drive, P.O. Box 503, Cheyenne, WY 82001. Representative: Mary H. Rohde (same address as applicant), (307) 634-4439. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 154679, filed March 5, 1981. Applicant: BILL DAHL FREIGHT BROKERAGE, 659 N.E. Northlake Way, Seattle, WA 98105. Representative: Jim Pitzer, Evergreen Bldg., Suite 235, 15 South Grady Way, Renton, WA 98055, 206-235-1111. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-9490 Filed 3-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY-2-026

Decided: March 19, 1981.

By the Commission, Review Board No. 1, members Parker, Chandler and Taylor (Member Chandler not participating).

MC 76262 (Sub-6), filed March 9, 1981. Applicant: WEIR-COVE MOVING & STORAGE COMPANY, 4224 Freedom Way, Weirton, WV 26062. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471-1800. Transporting *metal products*, between points in Licking County, OH, on the one hand, and, on the other, poits in IL, IN, IA, KS, KY, MD, MI, MO, NC, NJ, NY, PA, SC, TX, VA, WV, and WI.

MC 88203 (Sub-14), filed March 10, 1981. Applicant: OTIS WRIGHT & SONS, INC., 700 East Wayne St., P.O. Box 277, Lima, OH 45802. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224-3161. Transporting *general commodities* (except classes A and B explosives), between points in Allen, Auglaize, Shelby, and Van Wert Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 110563 (Sub-324), filed March 9, 1981. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29, North, Sidney, OH 45365. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760, 301-845-8565. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of all of carrier's outstanding certificates, and withdrawal of any pending applications, involving the above-specified authority. The carrier shall submit a list of all existing certificates and dates of issue to be cancelled.

MC 144472 (Sub-4), filed February 17, 1981. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 West 29th Place, Wheatridge, CO 80214. Representative: Delbert Ewing (same address as applicant) (303) 429-4065. Transporting *ores and minerals*, between points in the U.S., under continuing contract(s) with AMAX, Inc., of Greenwich, CT.

Volume No. OPY5-20

Decided: March 19, 1981.

By the Commission, Review Board 3, Members Krock, Joyce and Dowell.

MC 97009 (Sub-32), filed February 10, 1981. Applicant: HERZOG TRUCKING COMPANY, INC., 200 Delaware St., Honesdale, PA 18431. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435-7140. Transporting *general commodities* (except classes A and B explosives) between points in NY, NJ, CT, MA, RI, ME, VT, NH, PA, DE, MD, VA, NC, SC, WV, OH, GA, FL, TN, IN, IL, MI, AR, KY, and DC.

MC 106748 (Sub-14), filed February 10, 1981. Applicant: GODDARD'S TRANSPORTATION, INC., Route 4, Fair Haven, VT 05743. Representative: John P. Monte, 61 Summer St., Barre, VT 05641, (802) 476-6671. Transporting *clay, concrete, glass or stone products*, between points in Rutland and Addison Counties, VT, on the one hand, and, on the other, points in CT, ME, MA, MI, NH, NY, OH, PA, RI, and DC.

MC 114939 (Sub-59), filed March 9, 1981. Applicant: NORCROSS INDUSTRIES LIMITED, d.b.a. THE BULK CARRIERS COMPANY, Box 10, Cooksville Post Office Mississauga, Ontario, Canada L5A 2W7. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013, (313) 645-9600. In foreign commerce only, transporting *commodities in bulk*, between points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 118959 (Sub-259), filed March 12, 1981. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with The Proctor & Gamble Company of Cincinnati, OH, and its wholly owned subsidiaries.

MC 124809 (Sub-4), filed March 12, 1981. Applicant: WAEHLER TRUCKING SERVICE, INC., Rt. 1, Box 65, Lomira, WI 53048. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705, (608) 238-3119. Transporting *machinery*, between points in the U.S., under continuing contract(s) with (1) G. E. Mann, Incorporated, of Campbellsport, WI and (2) R. L. Phelon Company, of Lomira, WI.

MC 129908 (Sub-79), filed February 24, 1981. Applicant: AMERICAN FARM LINES, INC., 8125 SW. 15th St., Oklahoma City, OK 73107. Representative: T. J. Blaylock, P.O. Box 75410, Oklahoma City, OK 73147, (405) 787-6660. Transporting *food and related products* (1) between points in FL, IL, IN, KY, MI, MO, NJ, NY, OH, and TN, on the one hand, and, on the other, points in OK and CA, and (2) between points in OK, on the one hand, and, on the other, points in CA.

MC 143739 (Sub-48), filed March 10, 1981. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Leonard K. Sackson (same address as applicant), (507) 465-3235. Transporting *lumber or wood products*, between points in Baxter and Izard Counties, AR, on the one hand, and, on the other, points in the U.S.

MC 144858 (Sub-42), filed March 6, 1981. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., Omaha, NE 68102, 402-348-0832. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Kraft, Inc., of Glenview, IL.

MC 146758 (Sub-8), filed March 13, 1981. Applicant: LADLIE TRANSPORTATION, INC., 103 East Main St., Albert Lea, MN 56007. Representative: Phillip H. Ladlie, same address as applicant, 800-533-6038. Transporting *food and related products* between Chicago, IL on the one hand, and, on the other, points in MN, CA, AZ, CO, NV, OR, WA, UT, ID, MT, NM, and TX.

MC 147378 (Sub-2), filed February 24, 1981. Applicant: BAMA TRANSPORTATION COMPANY, INC., 5247 East Pine, Tulsa, OK 74115 Representative: Jack R. Anderson, Suite 305, 9 East Fourth St., Tulsa, OK 74103, (918) 583-9000. Transporting *such commodities* as are dealt in or used by food distribution centers, chain grocery stores, fast food outlets and discount stores, between points in Jackson County, MO, on the one hand, and, on the other, points in the U.S.

MC 148428 (Sub-19), filed March 9, 1981. Applicant: BEST LINE, INC., P.O. Box 765, Hopkins, MN 55343. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333-1341. Transporting *such commodities* as are dealt in by wholesale and retail grocery store and food business houses and kitchen equipment, between points in Dakota, Hennepin, and Ramsey Counties, MN, on the one hand, and, on the other, points in the U.S.

MC 148919 (Sub-1), filed March 10, 1981. Applicant: HEARTLAND EXPRESS, INC., P.O. Box 129, St. Clair, MO 63077. Representative: William H. Shawn, 1730 M Street NW., Suite 501, Washington, DC 20036, (202) 296-2900. Transporting *such commodities* as are dealt in by wholesale and retail chain grocery stores, restaurants and cleaning

supply houses, between points in AL, AR, GA, IL, IN, IA, KY, KS, LA, MI, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, WV, and WI.

MC 150239 (Sub-4), filed March 3, 1981. Applicant: PACESETTER TRANSPORT DIVISION, EDGEMERE TERMINALS, INC., 8004 Stansbury Road, Baltimore, MD. 21222. Representative: R. Emery Clark 366 Executive Bldg., 1030 Fifteenth Street NW., Washington, D.C. 20005, (202) 296-3555. Transporting *building materials*, between Baltimore, MD points in Anne Arundel, Washington, and Baltimore Counties, MD, Fairfax County, VA, Bucks County, PA, and Wilson and Davidson Counties, NC, on the one hand, and, on the other, points in MD, DE, NC, NJ, NY, PA, VA, WV, and DC.

MC 150339 (Sub-26), filed March 13, 1981. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant), (301) 673-7151. Transporting *general commodities* (except classes A and B explosives) between points in the U.S. under continuing contract(s) with Roper-Eastern Corporation, of Baltimore, MD.

MC 150898 (Sub-50), filed March 11, 1981. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Ave., Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *metal products*, between points in the U.S., under continuing contract(s) with The Jordan International Co., of New Haven, CT, and Roll Form Products, Inc., of Boston, MA.

MC 151048 (Sub-1), filed March 4, 1981. Applicant: MODERN EXPRESS, INC., 2091 Kasota Ave., St. Paul, MN 55108. Representative: David R. St. Croix, 2328 Kings Circle, Woodbury, MN 55125, (612) 646-6531. Transporting (1) *general commodities* (except classes A and B explosives) between Minneapolis/St. Paul, MN, on the one hand, and, on the other, points in MN, WI, ND, SD, IA, NE, KS, MO, IL, IN, and MI, (2) *such commodities* as are dealt in by retail drug stores, between Milwaukee, WI, on the one hand, and, on the other, points in IL, IN, and MI, and (3) *building materials*, between points in MN, WI, ND, SD, IA NE, KS, MO, IL, IN, and MI.

MC 153428 (Sub-1), filed March 11, 1981. Applicant: DESHOTEL TRUCKING COMPANY, a corporation, Rt. 5, Box 7039, Beaumont, TX 77706. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102, (817) 332-4415. Transporting (1) *petroleum, natural gas, and their products*, and (2) *chemicals and related products*, between point in Jefferson County, TX, on the one hand, and, on the other, points in AR, LA, MS, OK, and TX.

MC 154048 (Sub-1), filed March 2, 1981. Applicant: LAMAR K. HAAS, INC., R.D. 2, Box 652, Slatington, PA 18080. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357-7220. Transporting *chemicals and related products*, between Baltimore, MD, on the one hand, and, on the other, points in the U.S.

MC 154558, filed February 10, 1981. Applicant: J. E. DAVIS & SONS CO., a Corporation, 4035 Griswold, Port Huron, MI 48060. Representative: James F. Schouman, 21925 Garrison, Dearborn, MI 48124, (313) 561-3548. Transporting *household goods*, between points in MI.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-9501 Filed 3-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 48]

Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: March 24, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 3581 (Sub-32)X, filed March 19, 1981. Applicant: THE MOTOR CONVOY, INC., 2175 Parklake Drive, NE., Suite 107, Atlanta, GA 30345. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Applicant seeks to remove restrictions in its Sub-No. 27F certificate to (1) broaden the commodity description from automobiles, trucks, and tractors to "transportation equipment and machinery"; (2) expand one-way authority to radial authority between points in Jefferson County, KY and points in the U.S.; and (3) remove the restriction against service to "AK and HI".

MC 5227 (Sub-85)X, filed March 16, 1981. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. Applicants seeks to remove restrictions in its Sub-No. 73F certificate to (1) broaden the commodity description from "chemicals, drilling mud, and drilling mud compounds and additives" to "chemicals and related products" and (2) delete the "in bulk" restriction on its authority between points in the United States.

MC 19201 (Sub-142)X, filed March 17, 1981. Applicant: PENNSYLVANIA TRUCK LINES, INC., 49th Street and Parkside Avenue, Philadelphia, PA 19139. Representative: S. Berne Smith, P.O. Box 1166 (100 Pine Street), Harrisburg, PA 17108. Applicant seeks to remove restrictions in its lead permit No. MC 118779, and Sub-Nos. 7, 8, 9, 12F and 14F to (1) broaden the commodity description from diesel fuel and kerosene in bulk, in tank vehicles in Sub-No. 7, from diesel fuel, in bulk, in tank vehicles in Sub-No. 8 to "commodities in bulk"; (2) broaden the commodity description from general commodities (with exceptions) to "general commodities, except classes A & B explosives" in Sub-No. 9; (3) broaden the commodity description from diesel locomotive engines, generators and motors, and their parts to "transportation equipment" in Sub-No. 12F and 14F; (4) broaden the territorial descriptions in the above authorities to "between points in the U.S." under continuing contract(s) with a named shipper.

MC 22182 (Sub-40)X, filed March 3, 1981. Applicant: NU-CAR CARRIERS, INC., P.O. Box 172, Bryn Mawr, PA

19010. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Applicant seeks to remove restrictions in its lead and Sub-Nos. 21, 23, 25, 28, 29, 31, 32, 33F, 35F, 36F certificates and E-1 letter-notice to (A) broaden the commodity descriptions to (1) "transportation equipment" from (a) new automobiles, trucks and bodies, chassis and cabs, commercial motor vehicles, buses and bus chassis, new, used, unfinished, rejected, damaged or defective, and tank trailers, in the lead certificate and Sub-No. E-1 letter-notice; (b) motor buses, in Sub-No. 21; (c) motor homes, in Sub-No. 23; (d) motor vehicles, chassis, bodies, cabs parts and accessories, in Sub Nos. 25 and 28; (e) automobiles, in Sub-Nos. 29 and 31; (f) automobiles, trucks and motor homes, in Sub-No. 32; (g) automobiles and trucks in Sub-Nos. 33F, 35F and 36F; and (2) "machinery" from farm tractors and parts, accessories and equipment, in the lead certificate; (B) broaden the territorial description to county-wide authority in lieu of existing city-wide authority: (1) Middlsex County, MA, for Somerville, MA; Montgomery County, PA, for Landsale, PA; Davidson, Dickson, Cheatham, Rutherford, Wilson, Sumner, and Williamson Counties, TN, for Nashville, TN, Erie County, PA, for West Springfield, PA; Essex County, NJ, for Newark, NJ; Montgomery County, MD, for Chevy Chase, MD; Delaware County, PA, for Chester, PA; Chester County, PA, for Exton, PA; and Edgecombe County, NC, for Rocky Mount, NC, in the lead certificate; (2) Bergen County, NJ, for Mahwah, NJ, and Middlesex County, NJ, for Metuchen, NJ, in the lead certificate and Sub-No. 33F; (3) Lorain County, OH, for Lorain, OH, in Sub-No. 36F; (C) remove the territorial restriction which limits service to no intermediate points, to authorize service at all intermediate points along its regular route and replace one-way with two-way service between Detroit, MI and Buffalo, NY, and remove the restriction limiting service to the season of closed navigation on the Great Lakes, in the lead certificate; (D) remove the restriction limiting service to the transportation of specified commodities, in initial movement, truckaway or driveaway service, in all certificates; (E) authorize radial authority to replace existing one-way service between specified cities or counties in various combinations of eastern States and points throughout the U.S. in the irregular-route portion of its authority in the lead certificate and Sub-Nos. 21, 25, 28, 29, 31, 32, 35F, 36F, and E-1; (F) eliminate the AK and HI restriction, in the lead certificate and Sub-Nos. 21, 25, 28 and 29; (G) remove the plantsite limitation, in the lead certificate and Sub-Nos. 25, 29, 35F, 36F, and E-1, only where the limitations apply to a city or county facilities or the like; (H) remove the restriction limiting service to the transportation of traffic (a) originating at and/or destined to specified points, in the lead certificate and Sub-Nos. 21 and E-1, only where the facilities restrictions apply to a city or county or the like; and (b) having a prior movement by rail or water, in its irregular-route authority of the lead certificate; and (I) eliminate the "foreign commerce only" restriction, in Sub-No. 29 part (2).

MC 35320 (Sub-650)X, filed March 16, 1981. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 205F, 454F, 526F, and 563F certificates to (1) broaden the general commodities descriptions [with the usual exceptions and ammunition, and parts of ammunition (Sub-No. 205F)] to "general commodities and (except classes A and B explosives)"; (2) replace plantsite restrictions with city-wide or county-wide authority: Irving with Dallas County, TX in Sub-No. 205F; Palestine with Anderson County, TX in Sub-No. 454F; Somerset County, PA, and Corsicana with Navarro County, TX in Sub-No. 526F; and Beaumont, TX in Sub-No. 563F; and (3) remove the "except AK and HI" restriction in the above named subnumbers.

MC 35320 (Sub-650)X, filed March 16, 1981. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 261F, 303F, 307F, 359F, 445F, 450F and 596F certificates to (1) broaden the commodity descriptions from general commodities, with exceptions to "general commodities (except classes A and B explosives)" in all certificates; (2) eliminate the facilities limitations in all certificates; (3) expand city-wide to county-wide authority from Santa Rosa to Sonoma County, CA in Sub-No. 261F; Ridgefield to Clark County, WA in Sub-No. 307F; Ft. Madison to Lee County, IA in Sub-No. 445F; Stoughton to Norfolk County, MA in Sub-No. 450F; and Siloam Springs to Benton County, AR in Sub-No. 596F; (4) change one-way to radial authority between Fort Smith, AR, and all points in the U.S. in Sub-No. 359F; and (5) remove the restrictions (a) against service to "AK and HI" in Sub-Nos. 261F, 303F, 307F, 359F, 445F, and 450F; and (b) "originating at or destined to" in Sub-No. 303F.

MC 67646 (Sub-98)X, filed March 16, 1981. Applicant: HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same as applicant). Applicant seeks to remove restrictions in its Sub-No. 55F, reacquired in MC-FC-78368, to (1) remove all exceptions in its general commodity descriptions, except classes A and B explosives; (2) serve all intermediate points on its regular-routes extending through PA, NY, and NJ; (3) delete off-route authority at Camden, NJ; (4) eliminate the "originating at, destined to" foreign commerce restriction on movements to Canada, on sheet 3; (5) remove the limitation against traffic moving radially between "Reading, PA, and Philadelphia, PA, New York, NY, and those in NJ within 10 miles of the city limits of New York, NY," and the exception to the restriction, "except traffic moving in foreign commerce destined to, or originating at, points in Canada" on sheet 2; (6) broaden the commodity description from frozen vegetables to "food and related products" on sheet 3; and (7) replace one-way authority with round-trip service authority between Seabrook, NJ and ports of entry at or near Niagara Falls, NY and Rouses Point, NY.

MC 69052 (Sub-45)X, filed March 9, 1981. Applicant: REED TRUCKING COMPANY, P.O. Box 216, Milton, DE 19968. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St., N.W., Washington, D.C. 20004. Applicant seeks to remove restrictions from its lead and Sub-Nos. 31, 35, 37F, 40F, 41F, 42F and 43 certificates to (1) broaden the commodity description from: (a) fertilizer and fungicides and insecticides, dry chemicals, lime, limestone and limestone products to "chemicals and related products" in the lead and Sub-Nos. 37F and 43F; (b) feed, raw materials used in the manufacture of feed and seed, mill feeds and materials used in the manufacture thereof, canned goods and fresh fish and shell fish, raw hides and pelts, poultry and eggs, fresh frozen foods and fresh and frozen poultry, frozen fruits and vegetables and poultry iced or frozen, dairy products, canned goods, foodstuffs, and flour to "food and related products" in the lead and Sub-Nos. 31, 35, 40F, 41F, and 42F; (c) machinery and hardware to "machinery, furniture and fixtures, and metal products" in the lead; (d) coal to "coal

and coal products" in the lead; (e) lubricating oils and greases to to "petroleum, natural gas and their products" in the lead; (f) lubricating oil and printing paper and stationery to "petroleum, natural gas and their products, pulp, paper and related products" in the lead; (g) lumber and lumber and millwork, wallboard, plaster, cement, gypsum board and steel sash to "lumber and wood products and building materials" in the lead; (h) tin cans to "metal products" in the lead; and (j) shells (for manufacturing buttons) to "such commodities as are dealt in or used by manufacturers of buttons" in the lead; (2) remove the restrictions "in containers" in the lead; and "except in bulk" in Sub-Nos. 37F, 40F, 41F, 42F and 43F; (3) replace specific point authority with county-wide authority wherever they appear in the above numbered certificates as follows: Baltimore to Baltimore County, MD; Salisbury to Wicomico County, MD; Milton, Nassau, and Stockley to Sussex County, DE; Lansdale to Montgomery County, PA; Landisville to Atlantic County, NJ; Harrisburg to Dauphin County, PA; Bradford to McKean County, PA; Milford to Kent and Sussex Counties, DE; DeVault to Chester County, PA; Chester to Delaware County, PA; from Nassau, Harrington, Townsend, and Mt. Pleasant, DE, to Sussex, Kent and New Castle Counties, DE; Newark to Hudson County, NJ; Louisville to Jefferson County, KY; Dover, Frederica, and Harrington to Kent County, DE; Albany to Albany County, NY; Schenectady to Schenectady County, NY, Rising Sun to Cecil County, MD; New Haven to New Haven County, CT; Springfield to Hampden County, MA; Bridgeton to Cumberland County, NJ; Camden to Camden County, NJ; Townsend and Mt. Pleasant to New Castle County, DE; Fruitland to Wicomico County, MD; Syracuse to Onondaga County, NY; Buffalo to Erie County, NY; Niagara Falls to Niagara County, NY; Seneca Falls to Seneca County, NY; and Cambridge to Dorchester County, MD; (4) broaden the territorial descriptions from existing one-way authority to radial authority between numerous combinations of specified cities and counties and points throughout the U.S. in the lead and Sub-Nos. 31, 35, 37F, 40F, 41F, 42F and 43F; (5) remove the facilities limitation in Sub-No. 37F and 40F; and (6) remove the restriction against the transportation for shipments from Lewes, DE, to Brundidge, AL in Sub-Nos. 35.

MC 88845 (Sub-11)X, filed March 19, 1981. Applicant: PARCEL DELIVERY SERVICE, INC., 600 Belleville Turnpike, Kearny, NY 07032. Representative: Arthur Liberstein, 888 Seventh Avenue, New York, NY 10106. Applicant seeks to remove restrictions in its Sub-Nos. 5 and 8 permits to (1) broaden the commodity description from film, developed film, and packing materials, envelopes, and labels used in shipping exposed film, exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moved therewith (excluding motion picture film used primarily for commercial theatre and television exhibition) to "instruments and photographic goods, rubber and plastic producs, and waste or scrap materials not identified by industry producing" in each permit; and (2) broaden the territorial description to between points in the U.S. under a continuing contract(s) with a named shipper in each permit.

MC 94350 (Sub-435)X, filed March 9, 1981. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, D.C. 20036. Applicant seeks to remove restrictions in its lead certificate and all subs thereunder, except Sub-Nos. 72, 166, 359, and 419 to (1) broaden its commodity description (a) from trailers, except freight carrying vehicles, in secondary movements, in towaway service in its lead, and trailers designed to be drawn by passenger automobiles in Sub-No. 374, to "trailers" (removal of such commodity restrictions will subsume applicant's trailer authority in numerous other sub-numbered authorities), and (b) from buildings, in sections, mounted on wheeled undercarriages with hitch-ball connectors, prefabricated buildings in sections, and portable buildings in sections, mounted on wheeled undercarriages with hitch-ball connectors, and portable tobacco barns to "buildings and buildings in sections" in Sub-Nos. 56, 57, 59, 60, 61, 62, 64, 65, 67, 73, 74, 76, 81, 84, 87, 91, 95, 96, 97, 112, 131, 133, 190, 199, 215, 224, 227, 229, 232, 240, 243, 253, 254, 261, 262, 268, 280, 282, 290, 292, 295, 307, 329, 330, 336, 338, 341, 344, 352, 354, 360, 362F, 364, 365, 367, 369, 370, 373, 374, 376, 377, 378, 379, 381, 382, 383, 384, 385, 387, 389, 391, 393, 396, 397, 399, 400F, 401, 402, 403, 407F, 408F, 410F, 415F, 416F, 417F, 421F, 427F, 430F, 431F, and 433F; (2) change one-way authority to authorize radial operations in all Subs in section 1(b) above, generally between points in CA, MI, PA, TX, OK, AK, FL, IN, KS, GA, AL, MS, NC, SC, OR, ID and points in the U.S., or smaller areas specifically described in the respective certificates; and between points in named counties or specified portions of ID, UT, OR, WA, FL, SC, KS, MO, VA, NC, MS, NY, WI, MD, TN, CO, LA, MT, NE, KY, NH, ME, IA, TX, IN, OH, AR, NJ, and points in the U.S., or smaller areas in the U.S. specifically described in the respective certificates; (3) to remove restrictions limiting service to points of manufacture, points other than points of manufacture, traffic originating at or destined to named points, and plantsite restrictions in Sub-Nos. 56, 57, 59, 60, 61, 65, 95, 96, 97, 131, 190, 215, 224, 227, 229, 232, 240, 253, 254, 261, 262, 268, 280, 282, 290, 295, 336, 338, 341, 344, 369, 370, 373, 378, 382, 383, 389, 397, 401, and 416F; (4) expand specified points to county-wide authority; in Sub-No. 57, Canyon, Ada, Owyhee, Nez Perce, Caribou Counties, ID (Caldwell, Boise, Nampa, Lewiston, Pocatello, ID); in Sub-No. 59, Salt Lake City, Davis, Morgan, Weber, and Washington Counties, UT (Salt Lake City, Ogden, Orem, St. George, UT); in Sub-No. 60, Matilla, Tallamook, Klamath, Curry, Coos, Lane, Marion, Douglas, Jackson and Multnomah Counties, OR (Hermiston, Wheeler, Klamath Falls, Brookings, Coos Bay, Eugene, Salem, Roseburg, Medford, and Portland, OR); in Sub-No. 61, Lewis, King, Pierce, Snohomish, and Island Counties, WA (Chehalis, Kent, Tacoma, Lynnwood, Oak Harbor, WA); in Sub-No. 67, Carroll County, MO (Carrollton, MO); in Sub-No. 73, Mecklenburg County, Va (South Hill, VA); in Sub-No. 91, Wayne County, NY (Sodus, NY); in Sub-No. 95, Cecil and Baltimore Counties, MD (Elkton and White Marsh, MD); in Sub-No. 97, Larimer and Mesa County, CO (Loveland, Grand Junction, CO); in Sub-No. 112, Caddo Parish, LA (Vivian, LA); in Sub-No. 131, Cascade, Yellowstone, Custer, Fergus, and Lincoln Counties, MT (Great Falls, Billings, Miles City, Lewistown, and Libby, MT); in Sub-No. 199, Larimer County, CO (Larimer County, CO, except Loveland, CO); in Sub-No. 215, York County, NE (York, NE); in Sub-No. 252, Desota Parish, LA (Mansfield, LA); in Sub-No. 261, Brunswick County, VA (Lawrenceville, VA); in Sub-No. 336, Weld County, CO (Fort Lupton and Greeley, CO); in Sub-No. 338, Merrimack County, NH (Hooksett, NH); in Sub-No. 352, Garfield County, CO (Silt, CO); in Sub-No. 401, Clinton, Noble, and Montgomery Counties, OH (Sabina, Caldwell, and Brookville, OH); and in Sub-No. 426, Hall County, NE (Grand Island, NE).

MC 106205 (Sub-8)X, filed March 13, 1981. Applicant: HANLON AUTO TRANSPORT, INC., 112-37 Roosevelt Ave., Corona, NY 11368. Representative:

Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10123. Applicant seeks to remove restrictions from its lead and Sub-Nos. 5 and 6 certificates to: (1) in its lead, broaden the commodity description from (a) animal and poultry feed, lime, fertilizer, and commodities used in the manufacture of fertilizer, and (b) fertilizer and fertilizer materials to "farm products"; remove the seasonal restrictions and expand its one-way authority to radial authority between Springfield, MA and points in MA within five miles of Springfield, and, points in Hartford and Tolland Counties, CT; between New Haven, CT, and, Athol, MA and points in Hampden, Hampshire, Bershire, and Franklin Counties, MA; between Springfield, MA and points in MA within ten miles of Springfield, and, points in Hartford, Litchfield, and Tolland Counties, CT; (2) in Sub-No. 5, broaden the commodity descriptions from (a) automobiles, trucks, chassis, and parts, in driveaway or truckaway service, (b) used automobiles and trucks, in driveaway and truckaway service, (c) new trailers, in initial movements, in truckaway service, (d) trailers, in secondary movements, in truckaway service, and (e) motorcycles, incrated, to "transportation equipment, in driveaway or truckaway service"; expand its one-way regular route authority to two-way authority: between Detroit, MI, and Boston, MA; between Detroit, MI, and Hartford, CT; between Detroit, MI, and Providence, RI; authorize service at all intermediate points on the routes described above and between Springfield, MA and Washington, DC; between East Longmeadow, MA, and Washington, DC; between Monson, MA, and Washington, DC; between Williamsett, MA, and Washington, DC; eliminate the restriction limiting service from Detroit, MI, and Buffalo, NY, to seasonal navigation on the Great Lakes; and eliminate the pick-up only restriction at Buffalo, NY, and the delivery only restriction on the off-route points within 20 miles of Boston and Springfield, MA, Hartford, CT, and Providence, RI; under its irregular routes expand its one-way authority to radial authority between Elizabeth, NJ, and 13 named States and Washington, DC; between East Springfield, MA, and, points in the U.S.; and remove the AK and HI exceptions (3) in Sub-No. 6, broaden the commodity description from used passenger automobiles, in secondary movements, in driveaway service to "transportation equipment, in drveaway or truckaway service"; and eliminate the restriction limiting service for automobile dealers and automoble rental companies.

MC 106920 (Sub-128)X, filed March 17, 1981. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-No. 76F certificate to (1) broaden the commodity description to "food and related products" from foodstuffs and non-nutritive sweetner (except commodities in bulk), and (2) broaden the territorial description by removing the restriction limiting service to transportation of traffic originating at the named origins and destined the named destinations, substitute city-wide or county-wide authority in place of the specified facilities, and substitute radial service in place of one-way service: between New York, NY (facilities at New York, NY), Philadelphia, PA (facilities at Philadelphia, PA), Gloucester County, NJ (facilities at Pitman, NJ), and Baltimore, MD (facilities at Baltimore, MD), and points in IL, IN, KY, MI, MO, OH and WI.

MC 107544 (Sub-159)X, filed March 17, 1981. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580, Marion, VA 24354. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-No. 136 certificate to (1) broaden the commodity description to "commodities in bulk" from "activated carbon, in bulk, in tank vehicles"; (2) replace authority to serve Catlettsburg, KY, Neville Island, PA, and Bayport, TX, with Boyd County, KY, Allegheny County, PA, and Harris County, TX; (3) broaden the territorial description from one-way authority to radial authority between Boyd County, KY, Allegheny County, PA, and Harris County, TX, and, points in the United States; (4) remove the "in tank vehicles"; restriction; and (5) eliminate the "AK and HI" exceptions.

MC 108375 (Sub–46)X, filed March 16, 1981. Applicant: LEROY L. WADE & SON, INC., 10550 I Street, Omaha, NE 68127. Representative: Arnold L. Burke, 180 North La Salle Street, Suite 3520, Chicago, IL 60601. Applicant seeks to remove restrictions in its Sub-Nos. 11, 20, 22, and 33 certificates to (1) broaden the commodity description from new trucks and new automobiles, and used automobiles, to "transportation equipment"; (2) remove restrictions limiting the transportation to initial, secondary, truckaway or driveaway movements; (3) replace one-way authority with radial authority; (4) remove facilities restrictions and (5) remove "immediately prior movement by rail" restrictions. The territorial authority in Sub-Nos. 11 and 20 is subsumed by Sub-No. 22, which will authorize radial service between Des Moines and Council Bluffs, IA and Omaha, NE and points in IA, NE, SD, ND, and KS and a portion of MO and MN and between Clay County, MO and ND, radial service in Sub-No. 33 is between Omaha, NE and points in MN, KS, and SD (with exceptions).

MC 111231 (Sub–354)X, filed March 17, 1981. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: James H. Berry (same address as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 234F and 255F Certificates to (1) broaden the commodity descriptions from general commodities (with the usual exceptions) to "general commodities (except classes A and B explosives)"; (2) authorize service at all intermediate points in its regular-route authority between: (a) Joplin, MO and Denver, CO, and junction MO Hwys. 171 and 96 and Junction Interstate Hwy. 135 and KS Hwy. 196, in Sub-No. 234F; and (b) New Orleans, LA and Denver, CO, New Orleans, LA and junction US Hwys. 61 and 190, and junction LA Hwy. 1 and US Hwy. 71, and Lamar, CO, in Sub-No. 255F; and (3) remove the restriction limiting service for the purpose of joinder only at (a) junction KS Hwy. 196 and Interstate Hwy. 136; junction MO Hwy. 171 and 96; and, the termini, in Sub-No. 234F; and (b) junction Hwy. 10 and US Hwy. 190; junction US Hwy. 61 and US Hwy. 190; junction US Hwy. 71 and US Hwy. 82; junction Interstate Hwy. 40 and US Hwy. 270; junction LA Hwy. 1 and US Hwy. 71, and Lamar, CO; US Hwy. 160 and US Hwy. 190 in Sub-No. 255F.

MC 113460 (Sub–12)X, filed March 13, 1981. Applicant: BLACKHAWK TRANSPORTATION, INC., Box 3008, Des Moines, IA 50316. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Applicant seeks to remove restrictions in its Sub-Nos. 1, 6, 8, 9F, and 10F certificates to (1) change the commodity descriptions from various foodstuff items, such as packinghouse products, malt beverages, meats, etc., to "food and related products"; (2) delete "except hides and commodities in bulk" from the commodity descriptions in Sub-Nos. 6 and 10F; (3) eliminate the facilities limitations in all certificates except Sub-No. 1; (4) remove the "originating at and

destined to" restrictions in all certificates except Sub-No. 1; (5) broaden city-wide authority to county-wide authority: Des Moines to Polk County, IA in Sub-Nos. 1, 6, and 8; Marshalltown to Marshall County, IA in Sub-Nos. 1 and 8; Red Oak and Chariton to Montgomery and Lucas Counties, IA in Sub-No. 8; Clarinda to Page County, IA in Sub-No. 9F; and Cedar Rapids to Linn County IA in Sub-No. 10F; and (6) expand one-way authority to two-way authority between 6 central States and 17 States located mainly in the eastern portion of the U.S. and DC.

MC 114312 (Sub-36)X, filed March 12, 1981. Applicant: ABBOTT TRUCKING, INC., Route 3, Box 74, Delta, OH 43515. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Applicant seeks to remove restrictions in its lead and Sub-Nos. 8, 9, 10, 13, 15, 18, 23, 24, 27, 29G, 30, and 33F certificates and E-1 and E-2 letter notices to (1) broaden the commodity descriptions from (a) seed and livestock to "farm products", fence post and rough lumber to "lumber and wood products", cement to "clay, concrete, glass or stone products", fertilizer, salt, chemical fertilizer and dry fertilizer to "chemicals and related products", and canned goods to "food and related products" in the lead; (b) dry fertilizer, dry fertilizer materials and dry fertilizer ingredients, chemical fertilizer, fertilizer, fertilizer materials, and fertilizer ingredients, fungicides, herbicides, and insecticides, pesticides in mixed loads with dry fertilizer to "chemicals and related products" in Sub-Nos. 8, 9, 13, 15, 18, 23, 24, 29G, 30, 33F, E-1 and E-2; (c) feed and feed ingredients and grain products, soybean meal, and animal feed to "food and related products" in Sub-Nos. 10, 23, and 27; and (d) insulating materials to "building materials and clay, concrete, glass or stone products" in Sub-No. 33F; (2) remove the restrictions (a) "in bags" in Sub-Nos. 9, 18, 29G, 33F and E-1; (b) "in bulk, except bulk liquids in tank vehicles" in Sub-No. 9; (c) "in bulk" in Sub-Nos. 15, 18, 24, 27, 29G, 33F and E-1; (d) "except in tank vehicles" in Sub-Nos. 18 and 27; (e) "except bulk liquids" in Sub-No. 29G; and (f) "in containers, in bulk, in dump vehicles" in E-1; (3) replace city-wide with county-wide authority from Coldwater to Branch County, MI, in the lead and Sub-No. 24; Cement City to Lenawee County, MI, in the lead; Fort Wayne to Allen County, IN, in the lead and E-1; St. Clair to St. Clair County, MI, in the lead; Pioneer, Bryan, Edgerton, Blakeslee, and Edon to Williams County, OH, in the lead; Fayette and Wauseon to Fulton County, OH, in the lead and Sub-No. 33F; Columbus to Franklin County, OH, in the lead; Woodville to Sandusky County, OH in Sub-No. 8; Bascom and Fostoria to Seneca County, OH in Sub-Nos. 13 and 23; Lodi to Medina County, OH in Sub-No. 13; Joliet to Will County, IL in Sub-No. 13 and E-1; Spencerville to Allen County, OH, in Sub-No. 15; Washington Court House to Fayette County, OH, New Castle to Lawrence County, PA, Butler to Butler County, PA, New Brighton to Beaver County, PA, Kittanning to Armstrong County, PA, Canonsburg to Washington County, PA, and Danville to Vermilion County, IL in Sub-No. 18; Whiteland to Johnson County, IN in Sub-No. 18 and E-1; Bellevue to Huron County, OH in Sub-No. 23; Maumee and Silica to Lucas County, OH in Sub-Nos. 8, 23, 30 and 33F; Grand Rapids to Wood County, OH in Sub-Nos. 29G and 30; and Orville to Wayne County, OH, Marinette to Marinette County, WI, and Ft. Washington to Montgomery County, PA in Sub-No. 29G; (4) expand one-way authority to radial authority between numerous combinations of specified origins and U.S. points throughout the U.S. for example (a) Williams County, OH and points in the Lower Peninsula of Michigan, Branch County and Lenawee County, MI and points in Williams County, OH; Detroit, MI and points within three miles of Detroit, to Pioneer, OH; Allen County, IN and points in Hillsdale County, MI, and points in Williams County, OH; St. Clair, MI, and Williams County, OH; Allen County, IN, and Williams County, OH; Allen County, IN, and points in the Lower Peninsula of Michigan, and points in that part of Ohio, on, north, and west of a line beginning at the Ohio-Indiana State line and extending along U.S. Hwy. 40 to Columbus, OH, then along U.S. Hwy. 23 to Waldo, OH, then along Ohio Hwy. 98 to Bucyrus, OH, and then along Ohio Hwy. 4 to Sandusky, OH, including points on the indicated portions of said highways (with certain exceptions); and Franklin County, OH, and Allen County, IN in the lead; (b) Lucas and Sandusky Counties and Toledo, OH, and points in IN in Sub-No. 8; (e) Toledo, OH and points in PA, WV, IL, and points in WI in Sub-No. 9; Toledo, OH and points in IN and MI in Sub-No. 10; (d) Toledo, OH and points in NY; Seneca and Medina Counties, OH and points in IN and IL (with certain exceptions); Will County, IL, and points in IN, MI, and OH; Toledo, OH, and points in NY, PA, WV, IL and WI in Sub-No. 13; and various other combinations in Sub-Nos. 15, 18, 23, 24, 27, 29G, 30, 33F, E-1 and E-2; (5) remove the plantsite and warehouse facilities limitations in Sub-Nos. 18, 24, 27, 30, and 33F; and (6) remove the restrictions "originating at and destined to" in Sub-Nos. 24, 27, 29G and 30; and against transportation of shipments originating in Canada at the port of entry on the International Boundary line between U.S. and Canada located at Detroit, MI.

MC 120727 (Sub-11)X, filed March 10, 1981. Applicant: GALLATIN-PORTLAND FREIGHT LINES, INC., P.O. Box 888, Gallatin, TX 37066. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Applicant seeks to remove restrictions in its Sub-Nos. 4, 5, 8 certificates to (1) broaden the commodity description from (a) general commodities (with exceptions) to "general commodities (except classes A and B explosives)" in Sub-Nos. 4 and 5, (b) scrap aluminum to "metal products" in Sub-No. 8; (2) remove an in bulk, in tank, restriction in Sub-Nos. 4 and 8; (3) authorize service at all intermediate points (between Gallatin, Portland, Nashville and Memphis, TN) along a described regular routes in Sub-Nos. 4 and 5; (4) authorize county-wide for city authority in the irregular route portion of its Sub-No. 4: Sumner County for Gallatin TN, and Barren County for Glasgow, KY; in Sub-No. 4; Sumner County for Hendersonville, TN, and Franklin County for Russellville, AL, in Sub-No. 8; (5) delete plantsite facilities restrictions in the irregular route portion of Sub-No. 4; (6) remove restriction limiting service to traffic originating at and/or destined to named points in Sub-No. 5; (7) authorize radial in lieu of existing one-way service between Sumner County, TN, and Franklin County, AL, in Sub-No. 8; and (8) remove interlining restriction in Sub-No. 5.

MC 123407 (Sub-668)X, filed March 4, 1981. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: Sterling W. Hygema (same address as applicant). Applicant seeks to remove restrictions in its lead and Sub-Nos. 19, 20, 21, 22, 24, 26, 29, 34, 36, 37, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 72, 75, 76, 77, 80, 81, 82, 84, 89, 91, 92, 94, 95, 96, 98, 101, 102, 103, 104, 105, 107, 109, 110, 111, 112, 113, 115, 116, 117, 118, 119, 122, 123, 125, 129, 130, 131, 132, 134, 135, 136, 139, 141, 142, 145, 146, 149, 150, 152, 153, 156, 157, 158, 160, 161, 163, 164, 165, 166, 167, 170, 171, 173, 179, 180, 181G, 182, 183, 184, 185, 186, 188, 196, 197, 199, 201, 202, 203, 204, 205, 208, 211, 214, 215, 216, 218, 219, 220, 224, 227, 228, 230, 231, 232, 237, 238, 239, 241, 243,

244, 245, 247, 249, 251, 252, 253, 256, 257, 260, 261, 264, 265, 268, 269, 271, 272, 273, 274, 275, 279, 280, 282, 283, 285, 286, 287, 288, 289, 291, 294, 295, 297, 298, 300, 301, 302, 304, 305, 306, 307, 308, 313, 314, 315, 316, 318, 319, 320, 322, 325, 326, 327, 328, 329, 330, 331, 333, 334, 335, 336, 337, 338, 340, 341, 342, 343, 346, 347, 349, 350, 351, 354, 355, 364, 365, 366, 368, 371, 372, 373, 374, 375, 376, 378, 382, 383, 384, 387, 388, 389, 390, 391, 392, 394, 396, 400, 402, 403, 405, 406, 409, 410, 411, 414, 415, 417, 418, 419, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 437F, 439F, 440F, 442F, 443F, 444F, 445, 446F, 447F, 448F, 449F, 451F, 452F, 453F, 456F, 457F, 460F, 461F, 463F, 464F, 466F, 467F, 468F, 469F, 470F, 471F, 472F, 473F, 474F, 475F, 478F, 480F, 481F, 482F, 483F, 484F, 486F, 488F, 489F, 490F, 491F, 492F, 493F, 495F, 499F, 500F, 501F, 502F, 506F, 507F, 508F, 510, 511F, 514, 515, 516F, 517, 518F, 520, 521F, 523F, 533F, 534, 535, 536F, 538F, 539, 540, 543F, 544, 545F, 546, 547F, 550, 551F, 552, 553F, 554F, 556F, 557F, 559F, 566F, 569F, 570F, 573F, 575F, 576, 581F, 582F, 583F, 588F, 589F, 600F, 601F, 604F, 605F, 606F, 607F, 612F, 614F, 615F, 616F, 617F, 618F, 621F, 623F, 627F, 628F, 629F, 630F, 631F, 632F, 633F, 634F, 635F, 636F, 639F, 642F, 643F, 644F, 645F, 646F, 647F, 649F, 650F, 652F, and 653F to remove (1) the "except commodities in bulk" restriction, the except "AK and HI" restriction, the "in tank vehicles or hopper type vehicles" restrictions, the "ex-water, ex-rail, and ex-air" restrictions, and the"size or weight" restrictions wherever they appear in the above ranked certificates; and (2) the "originating at or destined to" restrictions in Sub-Nos. 26, 29, 37, 59, 61, 63, 70, 75, 76, 77, 80, 89, 101, 102, 105, 116, 117, 118, 119, 123, 129, 130, 131, 132, 139, 146, 149, 150, 152, 171, 173, 180, 186, 201, 228, 232, 241, 245, 251, 273, 274, 285, 288, 301, 304, 305, 316, 319, 326, 328, 335, 343, 347, 375, 392, 396, 400, 402, 409, 419, 453F, 463F, 468F, 482F, 483F, 493F, 499F, 544, 546, 547F, and 566F. Applicant seeks to broaden its commodity descriptions (1) in the lead and Sub-Nos. 22, 29, 37, 51, 52, 59, 61, 67, 89, 91, 103, 111, 113, 115, 118, 125, 129, 139, 149, 156, 157, 158, 170, 171, 182, 196, 197, 202, 205, 230, 237, 238, 239, 249, 252, 253, 279, 283, 291, 294, 295, 315, 318, 320, 322, 327, 329, 336, 351, 364, 365, 373, 374, 384, 390, 402, 403, 405, 406, 426, 428, 433, 439F, 443F, 445F, 461F, 469F, 471F, 478F, 491F, 491F, 499F, 502F, 508F, 514, 516F, 518F, 523F, 533F, 557F, 569F, 570F, 573F, 600F, 614F, 615F, 617F, 621F, 629F, 633F, and 652F to "clay, concrete, glass or stone products" from, for example, roofing granules; gypsum products; glass glazing units; mineral wool, mineral wood products, insulating materials, mirrors, flat glass and glass doors and fittings; silicon carbide; marbel chips; (2) in the lead and Sub-Nos. 19, 21, 34, 37, 43, 46, 47, 49, 50, 55, 58, 60, 62, 64, 65, 66, 67, 68, 72, 81, 84, 91, 94, 96, 105, 109, 110, 112, 116, 119, 122, 123, 125, 139, 145, 150, 152, 153, 160, 171, 203, 204, 211, 214, 219, 220, 224, 244, 257, 261, 268, 279, 282, 287, 289, 300, 301, 302, 307, 308, 320, 325, 328, 333, 335, 341, 346, 350, 368, 371, 376, 383, 389, 391, 402, 410, 415, 423, 424, 428, 429, 431, 432, 437F, 440F, 449F, 452F, 467F, 472F, 473F, 474F, 480F, 484F, 489F, 495F, 510F, 511F, 516F, 536F, 543F, 544, 546, 553F, 559F, 575F, 581F, 606F, 618F, 623F, 631F, and 649F to "lumber and wood products" from, for example, composition building board; composition boards and materials and accessories used in the installation of composition boards; plywood; wood flooring systems; particleboard; building, wall, and insulation boards; (3) in the lead and Sub-Nos. 24, 26, 29, 36, 45, 48, 54, 56, 65, 70, 75, 76, 80, 95, 101, 105, 110, 117, 118, 122, 125, 130, 131, 132, 135, 139, 141, 142, 146, 171, 180, 183, 185, 186, 188, 201, 208, 218, 220, 227, 232, 241, 243, 245, 247, 251, 256, 264, 265, 274, 275, 283, 287, 288, 298, 305, 313, 325, 326, 334, 337, 338, 347, 349, 366, 371, 372, 382, 392, 400, 417, 418, 419, 424, 425, 442F, 444F, 446F, 451F, 468F, 469F, 475F, 478F, 480F, 482F, 486F, 488F, 490, 493F, 501F, 508F, 515, 517, 534, 535, 536F, 538F, 539, 540, 543F, 545F, 546, 547, 550, 551, 554F, 576, 601F, 604F, 605F, 612F, 616F, 630F, 635F, 636F, 642F, 650F, 652F, and 653F to "metal products" from, for example, iron and steel articles; conduit and pipe attachments, parts and fittings; metal building materials; fabricated steel; steel tubing; non-ferrous metal articles; aluminum articles; prefabricated metal buildings, knocked down or in sections; (4) in Sub-Nos. 56, 91, 95, 102, 104, 131, 132, 164, 167, 264, 273, 275, 297, 304, 305, 326, 330, 378, 414, 417, 419, 447F, 448F, 463F, 481F, 492F, 533F, 544, 545F, 557F, 589F, 607F, 623F, 644F, 649F, 652F, to "rubber and plastic products" from, for example, plastic pipe; plastic injection modings; plastic siding resin; plastic sewer pipe; plastic drain pipe, and plastic fittings; (5) in the lead and Sub-Nos. 179, 199, 285, 314, 388, 425, 470F, 483F, 533F, 535, 546, 566F, 627F, 645F, and 649F to "machinery" from, for example, agricultural implements and machinery; liquid and solid waste recycling systems; spraying equipment; sugar beet and lifter loaders, harvesters, defoliators, and toppers-windrowers; potato bulk bores, diggers, planters; (6) in the lead and Sub-Nos. 20, 22, 29, 44, 52, 61, 72, 82, 98, 107, 118, 125, 139, 171, 219, 272, 283, 340, 375, 396, 430, 434, 460F, 466F, 588F, and 628F, and to "coal and coal products" from, for example, roofing and roofing materials; paving materials; floor tile; asphalted and decorated linoleum; (7) in Sub-Nos. 20, 161, 331, 394, 409, 453F, 464F, and 552 to "petroleum and natural gas and their products" from, for example, petroleum products and lubricating oils; (8) in Sub-Nos. 20, 63, 163, 165, 269, 354, 355, 453F and 600F to "chemicals and related products" from, for example, fertilizer, ice melting compound, vermiculite; cleaning, scouring, washing, buffing or polishing compounds; (9) in Sub-Nos. 37, 67, 184, 260, 387, 453F, 500F, 544, 575F, 583F and 649F to "pulp, paper and related products" from, for example, pulpboard; waste paper; paper and paper products; (10) in the lead and Sub-Nos. 77, 166, 215, 280, 582F, and 646F to "food and related products" from, for example, animal feed, poultry feeds, animal feed ingredients and poultry feed ingredients; animal feed supplement; dry beverage preparations; non-carbonate fruit flavored beverage; (11) in Sub-No. 283 to "ores and minerals" from iron ore, zircon ore and graphite; (12) in Sub-No. 134 to "transportation equipment" from empty containers, trailers, and trailer chassis; (13) in Sub-Nos. 134 and 231 to "farm products" from agricultural commodities and sugar cane horticulture mulch; (14) in Sub-No. 643F to"furniture and fixtures" from furniture, wood, and metal knocked down and assembled; and (15) in Sub-Nos. 134, 306, 319, and 647F to "general commodities [except classes A and B explosives (and sensitive weapons, Sub-No. 647F)]" from general commodities (with the usual exceptions). Applicant also seeks to (1) change its one-way authorities (whenever they appear in the above-named certificates) to radial authorities between named points throughout the U.S. or combinations of States therein and (2) replace some cities with county-wide authority and named facilities with city-wide or county-wide authority wherever they appear in each of the above numbered certificates as follows: L'Anse with Baraga County, MI; Freeport, with Stephenson County, IL; Warren with Jo Daviess County, IL; Wausau with Marathon County, WI; Kremlin with Marinette County, WI; Minneapolis with Hennepin County, MN; St. Paul with Ramsey County, MN; Waukegan with Lake County, IL; Chicago Heights with Cook County, IL; Joliet with Will County, IL; Wilmington with Will County, IL; South Bend with Saint Joseph County, IN; Litchfield with Meeker County, MN; Dubuque with Dubuque County, IA; Clinton with Clinton County, IA; Duluth with Saint Louis County, MN; Greenville with Washington County, MS; Bartonsville

with Peoria County, IL; Rockdale with Will County, IL; International Falls with Koochiching County, MN; Bemidji with Beltrami County, MN; Floodwood with Saint Louis County, MN; Cloquet with Carlton County, MN; Mobile with Mobile County, AL; Niles with Trumbull County, OH; Taylorsville with Smith County, MS; Natchez with Adams County, MS; Florence with Boone County, KY; Harvey with Cook County, IL; Alpena with Alpena County, MI; Marrero with Jefferson County, LA; Mason City with Cerro Gordo County, IA, and Ottowa with La Salle County, IL; Toledo with Lucas County, OH; Custer with Custer County, SD; Spearfish with Lawrence County, SD, and Sturgis with Meade County, SD, Cordova with Walker County, AL; Roaring River with Wilkes County, NC; Columbus with Franklin County, OH; Superior with Douglas County, WI; Isanti with Isanti County, MN; Cleveland with Cuyahoga County, OH; Youngstown with Mahoning County, OH, Elyria with Lorain, OH; Canton with Stark County, OH, Massillon with Stark County, OH, Ferndale with Oakland County, MI, and Warren with Trumbull County, OH; Wilmington with Will County, IL, and Whiting with Lake County, IN; Newport with Washington County, MN; New Orleans with Orleans Parrish, LA; Lakeville with Dakota County, MN; Lincoln with Logan County, IL, Mt. Zion with Macon County, IL; Frederickstown with Knox County, OH, Marion with Marion County, OH, Crestline with Crawford County, OH, Shelby with Richland County, OH, Mt. Vernon with Knox County, OH, and Henryetta with Okmulgee County, OK; Charleston with Charleston County, SC, and Orangeburg with Orangeburg County, SC; Dollar Bay with Houghton County, MI; Kankakee with Kankakee County, IL; Buckhannon with Upshur County, WV; Clinton with Sampson County, NC, and Laurinburg with Scotland County, NC; Federalsburg with Caroline County, MD, and Hastings with Adams County, NE; Valparaiso with Porter County, IN; Elgin and Hampshire with Kane County, IL; Hammond with Lake County, IN; Ford City with Armstrong County, PA, and South Greensburg with Westmoreland County, PA; Carleton with Monroe County, MI; Bayport with Washington County, MN; Dover with Tuscarawas County, OH; Madison and Waunakee with Dave County, WI; Blountstown with Calhoun County, FL; Brookville with Franklin County, IN; Kansas City with Wyandotte County, KS; Coshocton with Coshocton County, OH; Bensenville with DuPage County, IL; Columbia with Boone County, MO; Coatesville with Chester County, PA, Brackenridge with Allegheny County, PA, West Leechburg and Bagdad with Armstrong County, PA, and New Castle with Henry County, IN; Buda with Bureau County, IL; Kokomo with Howard County, IN; Bedford Park with Cook County, IL; Houston with Harris County, TX; Lyons with Toombs County, GA; Forest with Scott County, MS; Crystal City with Jefferson County, MO, Cumberland with Allegany County, MD, Mt. Holly Spring with Cumberland County, PA, and Kerbert Park with Crawford County, PA; Nashville with Davidson County, TN; Cinnaminson with Burlington County, NJ, Floreffe with Clairton County, PA, and Erwin with Unicoi County, TN; Port Arthur with Jefferson County, TX; Pine Bend with Dakota County, MN; Henderson with Henderson County, KY; Lawrence with Douglas County, KS, Lee's Summit with Jackson County, MO, Syracuse with Onondaga County, NY, Midland with Midland County, MI, and Ludington with Mason County, MI; Hardin with Big Horn County, MT; Bristol with Elkhart County, IN; Belle Fourche with Butte County, SD; Upton with Weston County, WY; Lovell with Big Horn County, WY; Gascoyne with Bowman County, ND; Letohatchee with Lowndes County, AL, Aberdeen with Monroe County, MS, and White Springs with Itawamba County, MS; Columbus with Platte County, NE; East St. Louis with Saint Clair County, IL; Tulsa with Tulsa County, OK; Sebewaing with Huron County, MI; Lincoln with Lancaster County, NE, and Bloomer with Chippewa County, WI; Oskaloosa with Mahaska County, IA; Corona with Riverside County, CA; Omaha with Douglas County, NE; Sedalia with Pettis County, MO; Englewood with Arapahoe County, CO; Gering with Scotts Bluff County, NE; Pearlington with Hancock County, MS; Pauling with Shawnee County, KS; Silsbee and Bon Weir with Hardin and Newton Counties, TX; Charleston with Kanawha County, WV; Ontario with Malheur County, OR; Newark with Licking County, OH; Ashland with Ashland County, WI; Salem with Salem County, NJ; Grand Rapids with Itasca County, MN; Upper Sandusky with Wyandot County, OH; Shakopee, with Scott County, MN, Avery and Franklin with Erie and Warren Counties, OH; Glover with Iron County, MO; Port Allegany with McKean County, PA; Webster with Worcester County, MA; Selma with Dallas County, AL; Wilton with Muscatine County, IA; Jeannette with Westmoreland County, PA; Tempe with Maricopa County, AZ; Corpus Christie with Nueces County, TX; Rice Lake with Barron County, WI; Turtle Lake with Barron County, WI; Elkhart with Elkhart County, IN; Amasa with Iron County, MI; Colton with San Bernardino County, CA; Virginia with St. Louis County, MN; Montgomery with Montgomery County, AL; Dallas with Dallas County, TX; Madina with Medina County, OH; Rantoul with Champaign County, IL; Monongahela with Washington County, PA, Burnsville with Yancey County, NC, Hamilton with Skagit County, WA, Sioux Falls with Minnehaha County, SD, and Webb City, with Jasper County, MO; Jacksonville with Calhoun County, AL; Starke with Bradford County, FL, Cincinnati with Hamilton County, OH, and Mansfield with Richland County, OH; Detroit with Wayne County, MI; Niagara Falls with Niagara County, NY, Oakland with Alameda County, CA, Rodeo with Contra Costa County, CA, and West Elizabeth with Allegheny County, PA; Forest City with Saint Francis County, AR, and Louisville with Jefferson County, KY; Lafayette with Boulder County, CO; Peoria with Peoria County, IL; Fullerton and Carson with Orange and Los Angeles Counties, CA; Truesdail with Warren County, MO; Ferndale with Whatcom County, WA, Frederick with Frederick County, MD, and Umatilla with Umatilla County, OR; Riverside County, CA; Decatur with Macon County, IL; Blue Island with Cook County, IL; Owensboro with Daviess County, KY; Fargo with Cass County, ND; Carol Stream with Dupage County, IL; Kingsport with sullivan County, TN; Mt. Vernon with Posey County, IN; Macon with Bibb County, GA; Lindon with Utah County, UT; Farmingdale with Monmouth County, NJ; North Judson with Starke County, IN; Dickinson with Stark County, ND; Westmont with DuPage County, IL; Hanahan with Berkley County, SC; Mills, Colony, and Stucco with Natrona, Big Horn and Crook Counties, WY; Marysville with Marshall County, KS; Riverton with Fremont County, WY; Rapid City with Pennington County, SD; Lithonia with Dekalb County, GA; Highland with Madison County, IL; Plymouth with Marshall County, IN; Fruita with Mesa County, CO; High Point with Guilford County, NC; Florence with Fremont County, CO; Centralia with Marion County, IL; Parsons with Labette County, KS; Kingsburg with Fresno County, CA; North Kansas City with Clay County, MO; Albany with Delaware County, IN; Wheatland with Mercer County, PA; Oshkosh with Winnebago County, WI; Imvite with Nye County, NV; Newcastle with Weston County, WY; Dearborn

with Wayne County, MI; Decatur with Morgan County, AL, Casa Grande with Pinal County, AZ, Long Beach and Visalia with Los Angles and Tulare Counties, CA, Loveland with Larimer County, CO; Ocala and Plant City with Marion and Hillsborough Counties, FL, peachtree and Jonesboro with Fayette and Clayton Counties, GA, Boise and Twin Falls with Ada and Twin Falls Counties, ID, Morris and St. Charles with Grundy and Kane Counties, IL, Franklin and Bicknell with Johnson and Knox Counties, IN, McPherson with McPherson County, KS, Montevido with Chippewa County, MN; Hernando with Desoto County, MS, Dunkirk with Chautauqua County, NY, Reidsville with Rockingham County, NC, Stayton with Marion County, OR, Bloomsburg with Columbia County, PA, Denison and Mansfield with Grayson and Tarrant Counties, TX, Spokane with Spokane County, WA, and Marshfield with Wood County, WI; Beaumont with Jefferson County, TX; Grand Rapids with Kent County, MI; Lansing with Ingham County, MI; Centerville with Appanoose County, IA, and Ft. Wayne and Cicero with Allen and Hamilton Counties, IN; Jackson with Hinds County, MS; Plainfield with Will County, IL; Seattle with King County, WA; Matteson with Cook County, IL; Grambling with Lincoln County, LA; Falls City with Richardson County, NE; Council Bluffs with Pottawattamie County, IA; Coldwater with Branch County, MI; Birmingham with Jefferson County, AL, Lincoln with Talladega County, AL; Beaver Falls with Beaver County, PA, and Marietta with Lancaster County, PA; Milford with Kosciusko County, IN, Decatur with Morgan County, AL, and Watkinsville with Oconee County, GA; Grants with Valencia, NM; Pensacola with Escambia County, FL; Stroud with Lincoln County, OK; Whitestone with Gilmer County, GA; Honna (Pevely) with Jefferson County, MO, and Knoxville with Knox County, TN; Boonville with Cooper County, MO; Wichita Falls with Wichita County, TX; Medina with Medina County, OH; Troy with Madison County, IL; Adrian with Lenawee County, MI, and Butler with Butler County, PA; Nitro with Kanawha County, WV; Stone Mountain with DeKalb County, GA, and Sun Valley, Bakersfield, and Santa Ana with Los Angeles, Kern, and Orange Counties, CA; Tualatin with Washington County, OR; Oconomowoc with Waukesha County, WI; Burns Harbor with Porter County, IN; Evansville with Vanderburgh County, IN; Albion and Danville with Edwards and Vermilion Counties, IL; Broken Arrow with Tulsa County, OK; El Paso with Woodford County, IL; Bremen with Marshall County, IN, and Marion with Waupaca County, WI; Sterling with Whiteside County, IL; Clearfield with Davis County, UT; Harvey with Cook County, IL; Darlington with Darlington County, SC; Denver with Denver County, CO; Ft. Collins with Larimer County, CO; Salt Lake City with Salt Lake County, UT; Tallamadge with Summit County, OH; Camden with Camden County, NJ, Savannah with Chatham County, GA, Los Angeles with Los Angeles County, CA, Jersey City with Hudson County, NJ, Cannonsburg with Washington County, PA, and Wilmington with New Castle County, DE; Colchester with McDonough County, IL; McDonald and Lorain with Trumbull and Lorain Counties, OH; Albuquerque with Bernalillo County, NM; Imperial with Jefferson County, MO, Memphis with Shelby County, TN, and Pittsburgh with Allegheny County, PA; Hillsboro with Hill County, TX; Gerald with Franklin County, MO, and Ecorse with Wayne County, MI; Sandy Ridge with Lowndes County, AL; Belvidere with Boone County, IL; Jasper with Hamilton County, FL; Hagerstown with Washington County, MD; Galveston with Galveston County, TX; Dayton, Hamilton, Middletown, and Urbana with Montgomery, Butler, and Champaign Counties, OH; San Antonio with Bexar County, TX; East Chicago and Gary with Lake County, IN, Aurora, Alton, and Madison with Kane and Madison Counties, IL, Fontana with San Bernardino County, CA, Russellville, Anniston, and Sheffield with Franklin, Calhoun, and Colbert Counties, AL, and Marietta with Lancaster County, PA; Belleville with Saint Clair County, IL; Hope with Hempstead County, AR; Plum with Fayette County, TX; Spanish Fork with Utah County, UT; Bardstown with Nelson County, KY; St. Paul with Ramsey County, MN; DePere with Brown County, WI; Georgetown with Georgetown County, SC; Toledo with Lucas County, OH; Gridley with McLean County, IL, Jackson with Butts County, GA, and Idabel with McCurtain County, OK; LaPaorte with LaPorte County, IN; Tampa and Miami with Hillsborough and Dade Counties, FL, Stone Mountain with DeKalb County, GA, and Lancaster with Fairfield County, OH; Cicero with Cook County, IL; Pittsburgh with Allegheny County, PA, Detroit with Wayne County, MI; Andrews with Georgetown County, SC; Colfax with Guilford County, NC; Kenosha with Kenosha County, WI; Evansville with Rock County, WI; Atlanta and Savannah with Fulton and Chatham Counties, GA; Milwaukee with Milwaukee County, WI; Amasa with Iron County, MI, and Louisville with Jefferson County, KY; Madison with Dane County, WI; Erwin with Unicoi County, TN; Mt. Zion with Macon County, IL, and Springfield and Joplin with Greene and Jasper Counties, MO; Gladsone and Stephenson with Delta and Menominee Counties, MI; Corsicana with Navarro County, TX; Adrian and Constantine with Lenawee and Saint Joseph Counties, MI, and Cornwall Heights with Bucks County, PA; Middlebury with Elkhart County, IN; Bennetsville with Marlboro County, SC; Denver with Denver County, CO; Roseboro with Sampson County, NC; New London and Stevens Point with Waupaca and Portage Counties, WI; Charlotte with Mecklenburg County, NC; Memphis with Shelby County, TN; Monroe with Monroe County, MI; Cassopolis with Cass County, MI; Neenah with Winnebago County, WI; West Bend with Washington County, WI; and Haskell with Muskogee County, OK; and (3) replace facilities restrictions in the following counties or cities with county- or city-wide authority wherever as follows: Sub-No. 26, Putnam County, IL; Sub-No. 36, Portage County, OH; Sub-No. 56, Talladega and Lincoln Counties, AL; Sub-Nos. 61, 271, 443F, 453F, 490, 506F, and 515, Chicago, IL; Sub-No. 63, Wayne County, MI; Sub-No. 118, Scott County, MN; Sub-No. 141, Lauderdale County, MS; Sub-No. 150, Washburn County, WI; Sub-No. 152, Monroe County, AL; Sub-No. 180, Platte County, NE; Sub-No. 218, Carver County, MN; Sub-No. 273, Geauga County, OH; Sub-No. 282, Lucas County, OH; Sub-No. 301, McKinley County, NM; Sub-No. 319, Posey County, IN; Sub-No. 338, Liberty County, TX; and Sub-No. 546, Montgomery and Warren Counties, MO.

MC 127524 (Sub-32)X, filed March 18, 1981. Applicant: QUADREL BROS. TRUCKING CO., INC., 1603 Hart Street, Rahway, NJ 07065. Representative: David L. Middleton (same address as applicant). Applicant seeks to remove restrictions in its Sub-No. 23F certificate to (1) broaden the commodity description from liquid chemicals, in bulk, to "commodities in bulk"; (2) replace the facilities limitation at or near Cartered, NJ, with points in Middlesex County, NJ; and (3) remove the "prior or subsequent movement by water" restriction.

MC 129063 (Sub-25)X, filed March 5, 1981. Applicant: JIMMY T. WOOD TRUCKING CO., P.O. Box 248, Ripley, TN 38063. Representative: Thomas A. Stroud, 2008 Clarktown, 5100 Poplar

Ave., Memphis, TN 38137. Applicant seeks to remove restrictions in its Sub-Nos. 3, 4, 5, 6, 10, 11, 12, 14, 17F, 20F, and 23F to (1) broaden its commodity description from clay and shale cinders in Sub-No. 3 to "ores and minerals"; from calcium carbide residue in Sub-No. 4 and the scrap metals in Sub-No. 12 to "waste or scrap materials not identified by industry producing"; from fertilizer and dry fertilizer ingredients in Sub-No. 5, ferro alloys in Sub-No. 11, agricultural lime and limestone in Sub-No. 14, dry fertilizer in Sub-No. 17F, and dry urea in Sub-Nos. 20F and 23F to "chemicals and related products"; and from bricks, concrete blocks and light-weight aggregate in Sub-No. 8 to "clay concrete, glass or stone products"; (2) remove vehicle restrictions in Sub-Nos. 3, 4, 5, 8, 10, 11, 12, 14, 17F, 20F, and 23F; (3) remove facilities limitations at Hot Springs, AR, in Sub-No. 4, Woodstock, TN, in Sub-Nos. 11 and 23F; (4) remove the exceptions of AK, HI, and TN, from nationwide authority in Sub-No. 11; (5) substitute Shelby County, TN, for Woodstock, TN, in Sub-Nos. 4, 11, and 23F, Garland County, AR, for Hot Springs, AR, in Sub-No. 4, Madison County, TN, for Jackson, TN, in Sub-No. 12, and Mississippi County, AR, for Armorel, AR, in Sub-No. 17F; and (6) replace one-way with radial authority between (a) England and Crittendon County, AR, and part of TN, and part of MO, in Sub-No. 3; (b) Garland County, AR, and Shelby County, TN, in Sub-No. 4; (c) Memphis, TN, and AR, KY, TN, parts of MO; (d) Lonoke and Crittendon Counties, AR, and points in TN, MS, IL, KY, MO, and OK in Sub-No. 8; (e) Nashville and Memphis, TN, and West Memphis, AR, in Sub-No. 10; (f) Shelby County and points in the U.S. in Sub-No. 11; (g) Madison County, TN, and Yellow Creek Port, MS, and Newport, AR, in Sub-No. 12; (h)(1) named counties in MO, IL, KY, and TN, and (2) named counties in MO, and IL, and Fulton, KY, in Sub-No. 14; (i) Mississippi County, AR, and MO, and TN, in Sub-No. 17F; (j) Memphis, TN, and AR, LA, TX, OK, MO, IL, IN, OH, KY, AL, and MS, in Sub-No. 20F, and (k) Shelby County, TN, and AR, LA, TX, OK, MO, IL, IN, OH, KY, MS, and AL, in Sub-No. 23F.

MC 129384 (Sub-2)X, filed March 5, 1981. Applicant: BETHANY EXPRESS, INC., Box 4005, Station A, Kansas City, MO 64101. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068. Applicant seeks to remove restrictions in its lead and Sub-No. 1 certificates and its MC-14419 certificate (acquired in MC-FC-78776) to (1) broaden its commodity descriptions from general commodities with the usual exceptions to "general commodities except classes A and B explosive"; (2) authorize service at all intermediate points along specified regular-routes, between: Kansas City, MO, and Eagleville, MO; St. Joseph, MO, and Bethany, MO, in the lead certificate; junction U.S. Hwy. 69 and MO Hwy. 6, and Bethany, MO; Bethany, MO, and Yorktown, IA; junction U.S. Hwys. 136 and 169, and Mt. Ayr, IA; Hopkins, MO, and junction MO Hwy. 46 and U.S. Hwy. 69; and Kansas City, MO, and Clarinda, IA, in Sub-No. 1, and; Des MOines, IA and Lamoni, IA; and, Des Moines, IA, and Moravia, IA, in MC-14419; (3) remove restrictions limiting service at named points "for the purpose of joinder only", in the lead certificate, junction U.S. Hwys. 36 and 69, and; in Sub-No. 1, junction U.S. Hwy. 69 and MO Hwy. 6; junction MO Hwys. 246 and 46, and; Grant City, MO; and (4) remove restrictions against service between named points, in the lead certificate (Kansas City, MO-Kansas City, KS and St. Joseph, MO); and in Sub-No. 1 (Kansas City, MO commerical zone and St. Joseph, MO, commerical zone).

MC 133095 (Sub-304)X, filed February 12, 1981, previously noticed in the **Federal Register** of March 4, 1981, republished as corrected this issue. Applicant: TEXAS=CONTINENTAL EXPRESS, INC., 2002 Continental Life Building, Fort Worth, TX 76102. Representative: Marshall Kragen, 1919 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20006. Applicant seeks to remove restrictions from its certificates in various Sub-Nos. mentioned below by (1) broadening the commodity descriptions from (a) alcohol and alcoholic beverages, alcoholic liquors and wines, malt beverages, nutritional solutions, frozen foodstuffs, foodstuffs, meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses to "food and related products" in Sub-Nos. 7, 9, 101, 107, 110, 139, 149, 168, 177, 181F, 185F, 202F, 204F, 209F, 211F, 215F, 225F, 226F, 242F, 258F, 264F, 268F, 281F, 283F, and 292F, and in addition Sub-No. 202F, part 2 specified material used in the manufacturing and sale of alcoholic liquors to "those materials used in the manufacturing and sale of food and related products"; (b) limestone and gypsum pellets to "ores and minerals, and clay, concrete, glass, or stone products" in Sub-No. 92; (c) television sets, record players radios, home entertainment centers, and electronic equipment, electric motors, grinders, buffers, dental lathes, dust collectors and pedestals, chain saws, generators, pumps, air conditioners, heaters, power transmission machinery and cosmetic mirrors to "machinery" in Sub-Nos. 90, 99, 104, 105, 112, 150, 151, 152, 155, 157, 159, 161, 162, 190F, 194F, 199F, and 215F; (d) plastic articles to "rubber and plastic products" in Sub-Nos. 101, 227F, 234F, 241F, and 255F; (e) woven synthetic fabric to "textile mill products" in Sub-No. 269F; (f) auto parts to "transportation equipment" in Sub-No. 132; (g) distillery bottling supplies, paper and paper articles, and packaging materials to "pulp, paper, and related products" in Sub-Nos. 101, 123, 191F, 192F 198F, 221F, 229F, 233F, 247F, and 252F; (h) attachments and accessories to "metal products" in Sub-Nos. 157, 161, and 260F; (i) plumbers goods and fittings, and plumbing equipment and supplies to "lumber and wood products, metal products, rubber and plastic products, and clay, concrete, glass or glass or stone products," in Sub-Nos. 223F, 236F, and 266F; (j) household products and household articles to "household goods" in Sub-No. 215F; (k) packaging materials used in the distribution and sale of alcoholic beverage to "clay, concrete, glass or stone products, rubber and plastic products, pulp, paper and related products," in Sub-No. 253F; (L) salt and salt products, and materials and supplies used in the agricultural, water treatment, etc. when shipped in mixed loads with salt and salt products to "(1) chemicals and related products, and (2) materials and supplies used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed loads with the commodities in (1) above" in Sub-No. 286F (m) pool, billiard and game tables, lighting fixtures, to "furniture and fixtures" in Sub-Nos. 131 and 161; (n) drugs, shampoo, soap, and toilet articles, hair care equipment, vehicle body sealer, cleaning compounds to "chemicals and related products" in Sub-Nos. 144, 149, 151, 152, 159, 165, 178, 194F, 204F, 215F, 233F, 235F, 261F, 277F, 286F, and 287F; (o) empty glass containers to "clay, concrete, glass or stone products" in Sub-Nos. 101, 150, 198F, and 251F; (p) lighting fixtures and doors to "building materials" in Sub-Nos. 161 and 182F; and (q) petroleum and petroleum products to "petroleum, natural gas and their products" in Sub-Nos. 210 and 233F; (r) traffic control products, pavement marking compounds, and materials, equipment and supplies used in the manufacture, installation or distribution thereof the "machinery, rubber and plastic products, clay, concrete, glass, or stone products, metal products and chemicals

and related products" in Sub-No. 261F; and (s) alcholic beverages and those materials used in the manufacture and sale of alcholic liquors to "food and related products, pulp, paper or related products, metal products, rubber and plastic products, clay, concrete, glass or stone products, printed matter and lumber or wood products" in Sub-No. 202F; (2) broadening the territorial descriptions from existing one-way authority to radial authority between numerous combinations of specified origins and U.S. points throughout the U.S. for example (a) Houston, TX and Del Rio, Eagle Pass, and El Paso, TX in Sub 9; points in 10 northeastern States to named facilities in AR, OK, and TX (with certain exceptions), in Sub-No. 52; Marion County, IA and Irvington, KY and points in the U.S. in Sub-No. 92; New York, NY, Armstrong County, PA, Louisville, and Franklin County, KY, Dearborn County, IN, Coffee County, TN and CA in Sub-No. 101; Minneapolis, MN and CO, OK and TX in Sub-No. 102; Gaston County, NC and points in that part of the U.S. in and west of ND, SD, NE, KS, OK and TX in Sub-No. 104; Armstrong County, PA, Dearborn County, IN, Franklin County and Lousiville, KY, and Coffee County, TN and NM in Sub-No. 107; Fort Worth, TX and points in CO in Sub-No. 110; Mobile County and points in MD, NJ, NY, VA, and DC, and Philadelphia, PA in Sub-No. 123; Moniteau County, MO and points in the U.S. in Sub-No. 131; Toledo, OH and La Porte County, IN and points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY in Sub-No. 132; Dallas, TX and points in KS and OK in Sub-No. 139; points in MS and those points in the U.S. in and east of AL, TN, KY, WV, and PA in Sub-No. 142; Buffalo, NY and points in the U.S in and west of WI, IL, MO, AR, and LA in Sub-NO. 144; and various other combinations in Sub-Nos. 149, 150, 151, 152, 155, 159, 165, 168, 177, 181F, 182F, 185F, 191F, 192F, 194F, 195F, 197F, 198F, 199F, 204F, 209F, 210F, 215F, 221F, 223F, 224F, 226F, 229F, 233F, 235F, 236F, 242F, 247F, 251F, 252F, 253F, 258F, 260F, 261F, 264F, 266F, 268F, 269F, 277F, 281F, 283F, 286F, 287F, 292F; (3) changing city-wide to county-wide authority from: Athens to Henderson County, TX in Sub-No. 90; Knoxville to Marion County, IA, and Irvington to Breckinridge County, KY in Sub-No. 92; Fort Smith to Sebastian County, AR, in Sub-No. 99; Schenley to Armstrong County, PA in Sub-Nos. 101, 107 and 242F; Lawerenceburg to Dearborn County, IN in Sub-Nos. 101 and 107; Frankfort to Franklin County, KY in Sub-Nos. 101, 107, 155 and 242F; Tullahoma to Coffee County, TN in Sub-Nos. 101, 107 and 242F; Gastonia to Gaston County, NC in Sub-No. 104; Sequin, to Guadalupe County, TX, in Sub-No. 105; Ediston to Middlesex County, NJ in Sub-No. 112; Mobile to Mobile County, AL in Sub-Nos. 123, 192F, 247F, and 252F; California to Montieau County, MO in Sub-No. 131; Pinola to La Porte County, IN in Sub-No. 132; Milledgeville to Baldwin County, GA in Sub-Nos. 149 and 204F; Rochester to Olmstead County, MN in Sub-No. 150; Stamford to Fairfield County, CT in Sub-Nos. 150, 151, 152, 159 and 195F; Camarillo to Ventura County, CA in Sub-Nos. 152, 159, and 194F; San Leandro to Alameda County, CA in Sub-No. 155; Cleburne to Johnson County, TX, Itasca to Hill County, TX and West to McLennan County, TX in Sub-No. 161; Oxford to Lafayette County, MS in Sub-No. 162; Florence to Boone County, KY in Sub-No. 165; Belvidere to Boone County, IL in Sub-No. 177; Avery and Clarksville to Red River County, TX in Sub-Nos. 182F and 199F; Lawton to Van Buren County, MI in Sub-No. 185F; Smith to Sebastian County, AR in Sub-No. 190F; Saddle Brook to Bergen County, NJ, Lakewood to Ocean County, NJ, and Cheshire to New Haven, County CT in Sub-Nos. 194F and 195F, Clarion to Clarion County, PA in Sub-No. 198F; Monroe to Quachita County, LA in Sub-No., 215F, Salem to Columbiana County, OH in Sub-No. 223F; Corinth to Saratoga County, NY, and Ticonderogra to Essex County, NY in Sub-No. 229F; from the facilities of Quaker State Oil Corporation in Warren County, MS to Warren County, MS, in Sub-No. 235F; Downers Grove, Naperville, and Skokie to Du Page County, IL, Versailles to Woodford County, KY, Hammond to Lake County, IN, Ossinging to Westchester County, NY, and Taunton to Bristol County, MA in Sub-No. 240F; Fresno to Madera County, CA in Sub-No. 242F; Oconto Falls to Oconto County, and Green Bay to Brown County, WI in Sub-NO. 247F; Vienna to Wood County, WV, Joliet to Will County, IL, and Coventry to Kent County, RI in Sub-No. 251F; Moss Point, to Jackson County, MS, Bastrop to Morehouse County, LA, and Springhill to Webster County, LA in Sub-No. 252F; Kentwood to Kent County, MI and Olive Branch to DeSoto County, MS in Sub-No. 255F; Eastland to Eastland County, TX and Fresco to Collin County, TX in Sub-No. 260F; Hereford to Deaf Smith County, TX and Lubbock to Lubbock County, TX in Sub-No. 268F; Palestine to Anderson County, TX in Sub-No. 281F; and Grand Saline to Van Zandt County, TX in Sub-No. 286; (4) eliminating the restrictions (a) against service to AK and HI in Sub-Nos. 90, 92, 99, 104, 105, 112, 131, 144, 150, 151, 161, 162, 224F, 227F, 229F, 233F, 234F, 240F, 241F, 242F, 251F, 260F, 261F, 266F, 269F, 277F, and 281F; (b) against "size and weight" commodities in Sub-Nos. 105, 112, 155, and 157; (c) to "ex-water" movement in Sub-No. 268; (d) "originating and destined to" in Sub-Nos. 52, 90, 99, 123, 132, 144, 151, 152, 168, 177, 178, 185F, 197F, 202F, 227F, 229F, 233F, 240F, 266F, and 283F; (e) originating at or destined to a named facility in Sub-Nos. 90, 92, 102, 107, 112, 123, 132, 144, 149, 150, 151, 152, 159, 165, 177, 178, 185F, 190F, 192F, 194F, 202F, 204F, 210F, 215F, 223F, 224F, 227F, 229F, 233F, 235F, 236F, 240F, 247F, 252F, 266F, 268F, 277F, 281F, 283F, 286F, and 287F; (f) against "commodities in bulk" in Sub-Nos. 7, 9, 52, 90, 92, 99, 102, 105, 107, 112, 114, 139, 142, 144, 157, 159, 161, 162, 168, 178, 185F, 190F, 191F, 195F, 197F, 202F, 204F, 209F, 210F, 211F, 221F, 224F, 225F, 226F, 227F, 233F 234F, 235F, 240F, 241F, 242F, 247F, 255F, 261F, 268F, 269F 281F, 283F, 287F and 292F; (g) requiring use of equipment with mechanical refrigeration in Sub-Nos. 110, 139, 144, 159, and 165; (h) limiting the transportation of drugs, toliet preparations, paper, paper products, new furniture, plumbing fixtures, materials, equipment and supplies and/or entertainment products to transportation in mixed loads with other merchandise dealt in by retail discount stores in Sub-No. 52; and (i) excepting the transportation of foodstuffs and from authority to transport such merchandise as is dealt in by retail discount stores in Sub-Nos. 52 and 102 and foodstuffs and furniture in SubNo. 224. Applicant also seeks to delete authority to transport foodstuffs in mixed loads in Sub-Nos. 52 and 102. The purpose of this republication is to correct errors in publication of commodity descriptions in Sub-Nos. 150, 223, 236, 266, 253, 261, 202, 161, countywide grants in Sub-Nos. 99, 105, and 233, removal of AK and HI in Sub-No.266, elimination of restrictions in Sub-Nos. 168, 107, 132, 152, 194, 114, and 197 and grant of radial authority in Sub-No. 155.

MC 133219 (Sub-31)X, filed March 11, 1981. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, NE 68317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 4, 7, 9, 11, 12, 13, 16, 19, 23F, 24F, 26F, 27F, 29F, and 30 certificates (1) to change the commodity descriptions from (a) anhydrous ammonia to "petroleum, natural gas and their products" in the lead; (b) liquid feed and liquid feed

supplements, edible vegetable oils and blends thereof, soybean products, edible soybean oil and blends thereof, corn and wheat products, vegetable oils, tallow, and dairy products to "food and related products" in Sub-Nos. 1, 4, 12, 16, 19, 23F, 27F, 29F, and 30; (c) dry fertilizers to "chemicals and related products" in Sub-Nos. 7 and 24F; (d) liquid feed and liquid feed supplements, edible soybean oil, and blends thereof, and soybean oil, in bulk, in tank vehicles to "commodities in bulk" in Sub-Nos. 9, 13, and 26F; and (2) remove the restrictions "in bulk, in tank vehicles" in the lead and Sub-Nos. 11, 13, 16, 23F, and 27F; "except liquid commodities in bulk" in Sub-No. 12; "in containers" in Sub-No. 19; and "in bulk" in Sub-No. 29F; (3) expand territorial descriptions from plantsite facilities or point authorities to counties: Borger to Hutchinson County, TX, Conway to McPherson County, KS, Greenwood to Lancaster County, NE, Whitting to Monona County, IA, Early to Sac County, IA, and Garner to Hancock County, IA in the lead; Fremont to Dodge County, NE in Sub-Nos. 1 and 12; Lincoln to Lancaster County, NE in Sub-Nos. 4, 9, 12, 13, and 19; Council Bluffs to Pottawattamie County, IA in Sub-No. 7, Clay Center to Clay County, KS in Sub-No. 11; Crete to Saline County, NE in Sub-Nos. 16 and 23F; Falls City to Richardson County, NE in Sub-No. 24F; Wichita to Sedgwick County, KS, and Port of Catoosa to Rogers County, OK in Sub-No. 26F; Mankato to Blue Earth County, MN in Sub-No. 27F; and Dakota City to Dakota County, NE, West Point to Cuming County, NE, Denison to Crawford County, IA, Fort Dodge to Webster County, IA, Emporia to Lyon County, KS, and Luverne to Rock County, MN in Sub-No. 29F; (4) replace one-way authority with radial authority between numerous combinations of specific origins and points throughout the U.S. for example: Hutchinson, TX and points in CO, KS, and OK; McPherson, KS and points in CO, KS, MO, and NE; Lancaster, NE, and points in CO, IA, KS, MO, NE, SD, and WY; and Monona, Sac and Hancock Counties, IA and points in IL, IA, MN, NE, ND, SD, and WI in the lead; Dodge, NE and points in AR, CO, IL, IA, KS, ND, OK, SD, WY, MN, MO, and TX in Sub-No. 1; Lancaster, NE and points in AR, AZ, CA, CO, ID, IA, KS, MN, MO, MT, NM, OK, OR, ND, SD, TX, UT, WA, and WY in Sub-No. 4; Joplin and St. Joseph, MO, Lawrence, KS, Pottawattamie County, IA and points in Butler, Cass, Colfax, Dodge, Douglas, Lancaster, Saunders, Seward, and Washington Counties, NE in Sub-No. 7; Lancaster, NE and points in CO, IA, KS, MO, SD, and WY in Sub-No. 9; Clay County, KS and points in IA, NE, and MO in Sub-No. 11; Dodge and Lancaster Counties, NE, and points in ID, MT, WY, CO, NM, TX, OK, KS, SD, ND, MN, IA, MO, AR, IL, WI, UT, AZ, NV, WA, OR, and CA in Sub-No. 12; Lancaster, NE and points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NV, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC in Sub-No. 13; Saline, NE and points in AL, AZ, CO, FL, GA, IA, KS, LA, MN, MS, MO, NM, ND, OK, SC, SD, TX, WI, and WY, Saline, NE, and points in CA, CO, IL, IN, IA, KS, MN, MO, OH, OK, TX, and WI in Sub-No. 16; and various other combinations in Sub-Nos. 19, 23F, 24F, 26F, 27F, and 29F; (5) remove the plantsite and facilities limitations in the lead and Sub-Nos. 1, 4, 11, 12, 13, 16, 19, 23F, 29F, and 30; and (6) remove the "originating at and destined to" restrictions.

MC 135283 (Sub-68)X, filed March 16, 1981. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 South Stuhr Road, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Applicant seeks to remove restrictions in its Sub-No. 56F certificates to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)", (2) eliminate the restriction "to the transportation of traffic originating at or destined to the named facilities", (3) replace the facilities with county-wide authority: Kearney, NE with Buffalo County, NE and (4) remove the AK, HI and NE exceptions.

MC 136393 (Sub-8)X, filed March 13, 1981. Applicant: NY, NJ, CONN. FREIGHT & MESSENGER CORP., 351 West 38th Street, New York, NY 10123. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Applicant seeks to remove restrictions in its Sub-Nos. 2F and 3 certificates to (a) remove all exceptions in its general commodities authority except Class A and B explosives in Sub-No. 2F, (b) remove restriction requiring shipments move on freight forwarders' bills of lading in Sub-No. 2F (c) remove restriction to the transportation of traffic moving to or from a named facility in part (1), but not part (2) in Sub-No. 2F, (d) broaden commodity description from (1) wearing apparel and (2) such merchandise as is dealt in by retail department store, (excluding foodstuffs, new furniture, and alcoholic beverages) to "such merchandise as is dealt in by retail department stores", (e) and remove the restriction requiring that commodities in (2) above move in the same vehicle with wearing apparel in Sub-No. 3, and (f) change one-way to radial authority in part (2) of Sub-No. 2F to between Kansas City, KS and points in Part (1), and, points in 12 states.

MC 138264 (Sub-3)X, filed March 12, 1981. Applicant: B & E EXPRESS, INC., 175 W. Poplar Street, Newark, OH, 43055. Representative: Frank L. Calvary, 3066 N. Star Road, Columbus, OH, 43221. Applicant seeks to remove restrictions in its lead and Sub-No. 1 certificates to (1) broaden the commodity description from fabricated steel to "metal products" in the lead; and plastic pipe, pipe couplings and fittings, plastic articles, and adhesive to "rubber and plastic products and metal products" in Sub-No. 1; (2) remove the "except commodities in bulk" restriction in Sub-No. 1; (3) expand city-wide to county-wide authority from Bellefontaine to Logan county, OH in the lead; Hillard to Franklin County, OH and Union Township to Licking County, OH in Sub-No. 1; (4) replace one-way authority with radial authority between logan County, OH, and points in IL (except points on and south of U.S. Hwy. 36), IN, KY, MI (except points on and south of U.S. Hwy. 21), PA (except points in the Sharon, PA, commercial zone as defined by the Commission), and WV in the lead; and (5) remove the restriction against traffic originating at the plant site and warehouse facilities in the lead.

MC 140755 (Sub-76)X, filed March 17, 1981. Applicant: BRAY TRANSPORT, INC., P.O. Box 1191, 1401 North Little Street, Cushing, OK 74023. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Applicant seeks to remove restrictions in its MC-140755 certificate and Sub-Nos. 43, 49, 57, 59 and 61, (A) by broadening the commodity description from certified commodities in bulk such as lubricating oil and petroleum wax, to "commodities in bulk" in the lead and Sub-Nos. 43, 49, 57, 59 and 61; (B) by removing restrictions requiring the use of tank vehicles in the lead and Sub-Nos. 43, 49F, and 59F; (C) by broadening the territorial description of regular-route authority over specified routes to provide for round-trip service and to authorize service at all intermediate points (1)(a) between El Dorado, KS and Denver, CO; (b) between McPherson, KS and Denver, CO; (c) between Wichita, KS and Pritchett, CO; (d) between Ponca City and Enid, OK, El Dorado, Potwin, McPherson, Liberal, Russell and Shallow, KS and specified points in CO;

(2a) between Phillipsburg, Chanute, Neodesha, and Coffeyville, KS and specified points in CO; (3) between El Dorado, KS, Canon City and Falcon, CO; in the lead (D) by expanding irregular route authority to appropriate county-wide authority: Enid, OK to Garfield, CO, OK; Ponca City, OK, to Kay Co., OK; Potwin, KS to Butler Co., KS; Liberal, KS to Seward Co., KS; Great Bend, KS to Barton Co., KS; Arkansas City to Cowley Co., KS; Augusta and El Dorado, KS to Butler Co., KS; Wichita, KS to Sedgwick Co., KS; Hutchinson, KS, to Reno Co., KS; McPherson, KS to McPherson Co., KS; Russell, KS, to Russell Co., KS; Shallow Water, KS, to Scott Co., KS; Okmulgee, OK, to Okmulgee Co., OK; Cushing, OK, to Payne Co., OK; Rogers and Siloam Springs, AR to Benton Co., AR; Springdale and Fayetteville, AR, to Washington, Co., AR; Fort Smith, AR, to Sebastian Co., AR; Parsons, KS, to Labette Co., KS; Coffeyville, KS to Montgomery Co., KS; Clinton, OK, to Custer Co., OK; Lawton, OK, to Comanche Co., OK; Healdton, OK to Carter Co., OK, facilities near Atlas, MO, to Jasper Co., MO; facilities near Beatrice, NE, to Gage Co., NE; Etter, TX to Moore Co., TX; Pryor, OK, to Mayes Co., OK; Tonkawa, OK, to Kay Co., OK; Hutchinson, KS to Reno Co., KS; Grandview, WA, to Yakima Co., WA; Rocky Ford Co., to Otero Co., CO; facilities at South River, MO, to Marion Co., MO; Leavenworth, KS, to Leavenworth Co., KS; facilities at Fort Madison, IA to Lee Co., IA; facilities at Marshall MO, to Saline Co., MO; facilities at Borger, TX to Hutchinson, Co., TX; facilities at Conway, KS, to Summer Co., TX; facilities at Greenwood, NE, to Cass Co., NE; facilities at Whiting, Early, and Garner, IA to Minnona, Sac and Hancock Cos., IA; facilities near Dodge City, KS, to Ford Co., KS; facilities near Palmyra, MO, to Marion Co., MO; facilities at Enid, Ok, to Garfield Co., OK; facilities at Sugar Creek, MO, to Jackson Co., MO; facilities at Hoag, NE, to Gage Co., NE; facilities near Lake Charles, LA to Lake Charles, LA; Harrisburg, IL, to Saline Co., IL; facilities at Kearney, MO, to Clay Co., MO; facilities at Moberly, MO, to Randolph Co., MO; facilities at Greenwood, NE, to Cass Co., NE; facilities at Iowa City, IA, to Johnson Co., IA; Lawrence, KS, to Douglas Co., KS; Barnsdale, OK, to Osage Co., OK; Stroud, OK, to Lincoln Co., OK in the lead; facilities at Verdigras, OK, to Rogers Co., OK, in Sub-No. 43; Barnsdale, OK, to Osage Co., OK; Marcus Hook, PA, to Delaware Co., PA, and Kilgore, TX, to Gregg Co., TX, in Sub-No. 49F; El Dorado, KS, to Butler Co., KS in Sub-No. 59F; and Barnsdale, OK, to Osage Co., OK in Sub-No. 61F. (E) by broadening the irregular-route authorities in MC-140755 and Subs 43, 49, 57 and 59 from one-way to radial authorities between described territories in AR, AZ, CO, IA, KS, LA, MS, NE, NM, OK, PA, TX and WA, and described territories in AR, AZ, CA, CO, DE, FL, IA, ID, IL, IN, KS, KY, LA, MI, MD, MN, MO, MS, MT, ND, NE, NJ, NM, NY, OH, OK, PA, SD, TN, TX, UT, WI and WY; and (F) by removing the restrictions in the lead which have the effect of preventing applicant from participating in joint-line service with another carrier or from handling traffic having prior or subsequent movement by any mode of transportation or type of carrier.

MC 140952 (Sub-5)X, filed March 17, 1981. Applicant: REFRIGERATED EXPRESS, INC., 720 Twelfth Street, Huntington, WV 25701. Representative: Norma G. Wright (same address as applicant). Applicant seeks to remove restrictions in its lead and Sub-No. 2F certificate to: (1) change city-wide to county-wide authority Williamson and Logan, WV, to Mingo and Logan Counties, WV, in the lead and (2) authorize radial operations in place of existing one-way authority: between Huntington, WV, and points in WV, OH, and KY within 100 miles of Huntington, in the lead; between Huntington, WV, and points in VA and WV, in Sub-No. 2F.

MC 143708 (Sub-6)X, filed February 26, 1981, previously noticed in the **Federal Register** of March 6, 1981, republished as corrected this issue.

MC 143708 (Sub-6)X, filed February 26, 1981. Applicant: DUNES TRANSPORT, INC., 3965 N. Meridian St., Indianapolis, IN 46204. Representative: Warren C. Moberly, 320 N. Meridian St., Indianapolis, IN 46204. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2F, 4F, certificates to (1) broaden the commodity description from corn products, cornstarch to "food and related products" in all of the above authority, (2) delete the commodity restrictions of "in bulk, in tank vehicles" in the lead and Sub-No. 2; (3) replace city-wide service with county-wide authority: Marion County for Indianapolis, IN, in the lead; Linn County for Cedar Rapids, IA, in Sub-No. 2; Lake County for Lake Station, IN, in Sub-No. 4; (4) authorize radial service in lieu of existing one-way authority between the above counties, Indianapolis, IN, and Points in IL, IA, KY, MI, MO, OH, PA, TN, WI, WV, and the Lower Peninsula of MI. The purpose of this republication is to correct certain errors in the original notice.

MC 145579 (Sub-13)X, filed March 12, 1981. Applicant: D. IRVIN TRANSPORT LIMITED, Box 8, Station T, Calgary, Alberta, Canada T2H 2G7, Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. Applicant seeks to remove restrictions from its Sub-No. 10F certificate to broaden the commodity description in part (1) from drilling mud, drilling mud additives, oilfield chemicals, lost circulation materials, polymers, and oil well sealing fiber, to "Mercer Commodities"; and expand its one-way authority to radial authority between points in the US, and, ports of entry on the international boundary line between the US and Canada; in part (2) broaden the commodity description materials and supplies used in the construction and maintenance of oil and gas wells and pipelines, (except pipe) to "Mercer commodities"; and expand its one-way authority to radial authority between ports of entry on the international boundary line between Canada and the US in ND, MT, ID, WA, and AK, and, points in the US; and remove the exceptions AK and HI in both parts.

MC 145842 (Sub-22)X, filed March 17, 1981. Applicant: SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN 56101. Representative: Donavan J. Olson (same as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 4F, 7F, 9F, 10F, 13F, 15, 16, 18 and 19 certificates to (1) broaden the commodity description to "food and related products," from meat, meat products and by-products and articles distributed by meat packing houses, as described in the *Descriptions case*, 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), frozen meat, and fresh meat, suspended, and hides in Sub-Nos. 4, 7, 9, 10, 15 and 19, from dairy products in Sub-No. 9, from cheese in Sub-No. 16, and from foodstuffs and frozen foods (except commodities in bulk) and non-edible products, in vehicles equipped with mechanical refrigeration in Sub-Nos. 18 and 19, and also remove the in bulk, in tank vehicle restrictions to authorize "construction materials, and equipment and supplies used in the manufacture or distribution of construction materials" in Sub-No. 13F. Applicant also seeks to broaden the territorial descriptions by: removing restrictions limiting service to the transportation of traffic originating at and destined to the named facilities or named origin points and destination States, substituting county-wide authority in place of the specified

plantsites and cities, and changing from one-way service to radial service: Sub-No. 4F, between Sioux Falls, SD (facilities near Sioux Falls, SD) and Estherville and Sioux City, IA (facilities near Estherville and Sioux City, IA), and points in IL, IN, MI, MN, MO, OH and WI, and between East St. Louis, IL (facilities near East St. Louis, IL), and points in nine States; Sub-No. 7F, between points in NE, and points in Hennepin County, MN (facilities near Golden Valley, MN); Sub-No. 9F, between Estherville and Sioux City, IA (facilities near Estherville and Sioux City, IA), and Sioux Falls, SD (facilities near Sioux Falls, SD), and points in AL, FL, GA, KY, LA, MS, NC, SC, TN, TX, and Kansas City, MO; Sub-No. 10F, between Kenosha, WI, and points in 10 States; Sub-No. 13F, between Chicago, Charleston, and Wilmington, IL (facilities near Chicago, Charleston, and Wilmington, IL), Lagro, IN (facilities near Lagro, IN), Dubuque and Ft. Dodge, IA (facilities near Dubuque and Ft. Dodge, IA), and Memphis, TN (facilities near Memphis, TN), and points in eight States; Sub-No. 15, between Minneapolis, MN, and points in IA, NE, and SD; Sub-No. 16, between Wood, Green, and Columbia Counties, WI (Marshfield, Monroe, Portage, WI), and points in Jackson, Clay, Platte and Buchanan Counties, MO (Kansas City and St. Joseph, MO), Douglas County, NE (Omaha, NE), and Woodbury County, IA (Sioux City, IA); Sub-No. 18, between Bettendorf, IA (facilities at Bettendorf, IA, and points in IA, IL, IN, KY, MI, MN, MO, NE, OH, PA, SD, WV and WI, and between Plover, WI (facilities near Plover, WI), and points in 16 States; and Sub-No. 19, between Miner and Minnehaha Counties, SD (Howard and Sioux Falls, SD), and points in IA, NE, and MN.

MC 146992 (Sub-8)X, filed March 16, 1981. Applicant: PHIL-MART TRANSPORTATION, INC., P.O. Box 126, Braselton, GA 30517. Representative: William J. Boyd, Suite 205, 2021 Midwest Road, Oak Brook, IL 60521. Applicant seeks to remove restrictions from its Sub-Nos. 2F and 7F certificates to (1) broaden the commodity description in each certificate by removing the "in mixed loads with foodstuffs" commodity restriction, to authorize foodstuffs, cleaning compounds, napkins, tablecloths, dishes, cups, trays, and silverware; (2) broaden the territorial authority by removing restrictions limiting service to transportation of traffic originating at and destined to the named facilities at Chicago, IL in both authorities; (3) remove the exception excluding service in AK and HI in part (b) of Sub-No. 7F; and (4) substitute radial authority in place of one-way authority: Sub-No. 2F, between Chicago, IL and points in AL, AR, FL, GA, IN, KY, LA, MS, OH, TN, TX and WV; and Sub-No. 7F, (a) between Chicago, IL, and points in the United States (except AK, AL, AR, FL, GA, HI, IN, KY, LA, MS, OH, TN, TX and WV), and (b) between points in the United States, and Chicago, IL.

MC 150746 (Sub-5)X, filed February 23, 1981, previously noticed in the **Federal Register** of March 18, 1981, republished as corrected this issue. Applicant: DFC TRANSPORTATION COMPANY, 12007 Smith Drive, P.O. Box 929, Huntley, IL 60142. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its lead and Sub-No. 3F permits to broaden the commodity description in Sub-No. 3F, from coffee, tea, beverage mix, and beverage kits and parts for beverage kits to "food and related products." In the lead permit, applicant seeks to eliminate the restrictions to the transportation of shipments originating at and/or destined to named points and facilities and restrictions prohibiting transportation of specified commodities originating at and destined to named points; and, in both permits to broaden its territorial authority to "between points in the U.S.," under continuing contract(s) with named shippers. The purpose of this republication is to show the correct MC-Number to be MC-150746 (Sub-No. 5)X, in lieu of MC-141721 (Sub-No. 5)X, which was inadvertently shown.

[FR Doc. 81-9503 Filed 3-27-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are the 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 transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-106

The following applications were filed in region 1. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 154719 (Sub-1-1TA), filed March 16, 1981. Applicant: ROBCO TRUCKING CO., INC., 79 Parker Street, Clinton, MA 01510. Representative: Anthony D. Colacchio, ADCCO Incorporated, Peabody Off. Bldg., 1 Newberry Street, Peabody, MA 01960. *Foodstuffs and plastic articles and raw materials used in the manufacture thereof* between MA on the one hand, and, on the other, points in the St. Louis, MO and Miami, FL. Supporting shipper: Van Brode Milling Co. Inc., 20 Cameron St., Clinton, MA 01510.

MC 146026 (Sub-1-5TA), filed March 16, 1981. Applicant: CROSS COUNTRY FARMING CO., INC., P.O. Box 134, Pine Island Turnpike, Pine Island, NY 10969. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Paper and paper products, woodpulp, plastic and plastic products, and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above,* between points in the U.S., restricted to traffic originating at or destined to the facilities owned, utilized, or operated by the Georgia-Pacific Company of Darien, CT. Supporting shipper: Georgia-Pacific Company, 320 Post Road, Darien, CT 06820.

MC 146284 (Sub-1-1TA), filed March 16, 1981. Applicant: JAMES A. GOULD, 3663 Mavis Road, Unit 15, Mississauga,

Ontario, CD L5A 2Y9. Representative: William J. Hirsch P.C., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Lumber, brick, bagged shale, ground shale, fire clay and mortar mix;* between ports of entry on the International Boundary line between the US and CD, located in MI and NY, on the one hand, and, on the other, points in IL, MI, NY, OH, and PA, under continuing contract(s) with Domtar Construction Materials of Ontario, CD, and Claybelt Lumber Limited of Ontario, CD. Supporting Shipper(s): Domtar Construction Materials, 3380 Airway Dr., Mississauga, Ontario, CD L4V 1N7; Claybelt Lumber Limited, P.O. Box 1510, Hearst, Ontario, CD P0L 1N0.

MC 154756 (Sub-1–1TA), filed March 17, 1981. Applicant: THE GATEWAY DELIVERY, INC., 1 Saratoga Court, Nanuet, NY 10954. Representative: Roy A. Jacobs, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier:* irregular routes: *Commodities as are dealt in by a manufacturer of chemicals,* between Orange County, NY and the New York, NY commercial zone, on the one hand, and, on the other, points in the US (except AK and HI), under continuing contract(s) with Nepera Chemical Co., Inc. of Harriman, NY. Supporting Shipper: Nepera Chemical Co., Inc., Harriman, NY 10926.

MC 154763 (Sub-1–1TA), filed March 18, 1981. Applicant: JET LINE SERVICES, INC., 441 R. Canton Street, Stoughton, MA 02072. Representative: William F. Tripp (same address as applicant). *Toxic and hazardous wastes* between points in the U.S. Supporting Shipper: Recycling Industries, Inc., 385 Quincy Ave., Braintree, MA 02184.

MC 87451 (Sub-1–16TA), filed March 18, 1981. Applicant: CARGO TRANSPORT, INC., 91 Mountain Road, Burlington, MA 01803. Representative: Samuel A. Bithoney, Jr. (same as applicant). *Adhesives and materials, equipment and supplies used in the manufacture, sale and distribution thereof (except classes A & B explosives) and household goods as described by the Commission),* between points and places in CT, DC, DE, IN, IL, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, VT and WI. Supporting Shipper: Brook Adhesives Corp., 875 Washington Street, Canton, MA 02021.

MC 116371 (Sub-1–7TA), filed March 18, 1981. Applicant: LIQUID CARGO LINES LIMITED, P.O. Box 269, Clarkson, Ontario, CD L5J 2Y4. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Petroleum products, in bulk, in tank vehicles,* from ports of entry on the U.S./CD International Boundary line (1) on the Detroit and St. Clair Rivers in MI to the facilities of Roberts Consolidated Industries at or near Kalamazoo, MI and Dayton, OH, and (2) on the Niagara River in NY to the facilities of Robert Consolidated Industries at or near Huntingdon Valley, PA. Supporting Shipper: Roberts Company Canata, Ltd, 2070 Steeles Ave. West, Bramalea, Ontario, CD L6T 1A7.

MC 144888 (Sub-1–3TA), filed March 18, 1981. Applicant: BIL–RIC TRANSPORT SYSTEMS, INC., 130 Somerset St., Somerville, NJ 08876. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *General commodities (except classes A and B explosives),* between points in the US. Restricted to traffic originating at or destined to the facilities used or utilized by Beecham Products. Supporting shipper(s): Beecham Products, P.O. Box 1467, Pittsburgh, PA 15230.

MC 87451 (Sub-1–15TA), filed March 16, 1981. Applicant: CARGO TRANSPORT, INC., 91 Mountain Road, Burlington, MA 01803. Representative: Samuel A. Bithoney, Jr. (Same as applicant) *Contract carrier:* irregular routes: *Building materials, and materials, equipment and supplies used in the manufacture, sale and distribution thereof (except classes A & B explosives and household goods as defined by the Commission),* between points in ME, NH, VT, RI, CT, NY, NJ, PA, MD, DE, OH, MA and DC under continuing contract(s) with Architectural Components, Inc. of Malden, MA. Supporting shipper: Architectural Components, Inc., 263 Commercial St., Malden, MA 02148.

MC 145108 (Sub-1–17TA), filed March 16, 1981. 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: *(1) Elevators, escalators, and cylinders, and (2) materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between McKinney, TX and Moline, IL, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Montgomery Elevator Co. of McKinney, TX. Supporting shipper: Montgomery Elevator Company, 2101 Couch Drive, McKinney, TX 75069.

MC 144061 (Sub-1–11TA), filed March 17, 1981. Applicant: SICOMAC CARRIERS, INC., 1107 Goffle Road, Hawthorne, NJ 07506. Representative: Jack L. Schiller, 502 Flatbush Avenue, Brooklyn, NY 11225. *Contract carrier:* irregular routes: *Amines and fatty acids* from Memphis, TN to Charleston, WV and St. Louis, MO; *Cleaning compounds* from Everett, MA to Channelview, TX, under continuing contract(s) with NL Industries, Inc. of Hightstown, NJ. Supporting shipper: NL Industries, Inc., P.O. Box 1085, Hightstown, NJ 08520.

MC 2860 (Sub-1–27TA), filed March 16, 1981. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Richard M. Parnicky (same as applicant). *Glass and glass bottles,* from Wilson, NC to Columbus, OH. Supporting shipper: Kerr Glass Manufacturing Co., Inc., South Main Street, P.O. Box 97, Sand Springs, OK 74063.

MC 147811 (Sub-1–5TA), filed March 13, 1981. Applicant: FLO–JO CONTRACTING, INC., P.O. Box 283, Belgrade Lakes, ME 04918. Representative: Karl A. Johnson, P.O. Box 283, Belgrade Lakes, ME 04918. *Contract carrier;* irregular routes: *Paper and paper supplies,* from Winslow, ME; and Fort Edward and Albany, NY to points in DC, DE, IN, MD, NJ, NY, NC, OH, PA, VA and WV, under continuing contract(s) with Scott Paper Company of Philadelphia, PA. Supporting shipper: Scott Paper Company, Scott Plaza II, Philadelphia, PA 19113.

MC 154714 (Sub-1–1TA), filed March 16, 1981. Applicant: APACHE EXPRESS CORPORATION, P.O. Box 45, Humphrey Road, Great Valley, New York 14741. Representative: James E. Brown, 36 Brunswick Road, Depew, New York 14043. *Transportation equipment and materials, supplies and equipment used in the manufacture and distribution of such commodities* between Leroy, NY and Ellicottville, NY on the one hand, and, on the other, points in IL, IN, KY, MD, MI, MN, MO, NJ, NY, OH, PA, WI and VA. Supporting shippers: York Merit Products, Inc. 7921 E. Main Road, Leroy, NY; Leroy Machine Co., Inc. 7921 E. Main Road, Leroy, NY 14482

MC 154663 (Sub-1–1TA), filed March 11, 1981. Applicant: C.G.K. TRUCKING, INC., 210 St. Mary's Street, Lancaster, NY 14086. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Concrete additives, flooring compounds, grouting compounds and curing compounds (except commodities in bulk),* between the facilities of Master Builders, Division of Martin Marietta Corporation located at or near Buffalo, NY and IN, MI, NY, OH and PA. Supporting shipper: Master Builders, Division of Martin Marietta Corporation,

23700 Chagrin Blvd., Cleveland, OH 44122.

MC 118803 (Sub-1-8TA), filed March 13, 1981. Applicant: ATLANTIC TRUCK LINES, 168 Town Line Road, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by a distributor of paper, packaging products, and maintenance products,* between points in the United States, under contract(s) with Alling and Cory, Inc. of Long Island City, NY. Supporting shipper(s): Alling and Cory, Inc., 30-35 Thomson Avenue, Long Island City, NY 11101.

MC 87451 (Sub-1-14TA), filed March 11, 1981. Applicant: CARGO TRANSPORT, INC., 91 Mountain Road, Burlington, MA 01803. Representative: William F. Mix, 153 Grove Street, Lexington, MA 02173. *Contract carrier:* irregular routes: *Smoke stacks and materials, supplies and equipment used in the sale, manufacture and installation thereof, (except commodities in bulk, classes A & B explosives and household goods as described by the Commission),* between points and places in the U.S. (except AK and HI), restricted to traffic moving for the account of Alpha Environmental Services, Inc., under continuing contract(s) with Alpha Environmental Services, Inc., Boston, MA 02135.

MC 151356 (Sub-1-3TA), filed March 11, 1981. Applicant: THE BIRGE COMPANY, INC., 431 E. 16th Street, Paterson, NJ 07514. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract Carrier:* irregular routes: *Artist materials and supplies* between points in the U.S. except AK and HI, under continuing contract(s) with M. Grumbacher, Inc., of Cranbury, NJ. Supporting shipper: M. Grumbacher, Inc., Englehardt Drive, Cranbury, NJ 08512.

MC 135921 (Sub-1-1), filed March 11, 1981. Applicant: HARCO TRUCKING CORPORATION, 86 Garden Street, Westbury, NY 11590. Representative: Peter Gregory Lordi, Jr., 4 Richard Court, Butler, NJ 07405. *Contract carrier:* irregular routes: *(1) Paper and Paper Products, and (2) Equipment, material and supplies used in the manufacture, sale and distribution of the commodities named in (1) above (except in bulk in tank vehicles)* between points in AL, CT, DE, FL, GA, MA, MD, ME, NC, NJ, NJ, NY, PA, RI, SC, TN, VA, VT, and WV, under continuing contracts with Harmon Associates Corporation of Westbury, NY and Chesapeake Corporation of VA, of West Point, VA, and Harmon Associates Corporation of Westbury, NY. Supporting shipper(s): Chesapeake Corporation of VA, Box 311, West Point, VA 23181; Harmon Associates Corporation, 86 Garden Street, Westbury, NY 11590.

MC 154664 (Sub-1-1TA), filed March 11, 1981. Applicant: KIRYAS JOEL TRANSIT CORP., 4 Hayes Court, Monroe, NY 10950. Representative: Sidney J. Leshin, Esq., 575 Madison Avenue, New York, NY 10022. *Common carrier:* regular routes: *Passengers and their baggage,* commencing in the Village of Kiryas, Joel, Monroe, NY and proceeding west on NYS Route 17 to the intersection of the Interstate Hwy 87; thence south on Interstate Hwy 87 to interchange 15, thence continuing south on NJ Route 17 to Route 3; thence east on Route 3 through the Lincoln Tunnel to the Borough of Manhattan, City of NY over local streets in the Borough of Manhattan to the Borough of Brooklyn, and terminating in the Borough of Brooklyn at Rodney Street and Lee Avenue. Return in the reverse direction. Supporting shipper(s): There are 11 statements in support attached to this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 148879 (Sub-1-1TA), filed March 9, 1981. Applicant: SPRINGFIELD BEVERAGE, INC., 80 Baldarelli Court, Springfield, MA 01104. Representative: Patrick A. Doyle, 40 Sky Ridge Lane, Springfield, MA 01128. *Malt beverages and related advertising material, rejected and returned empty beverage containers, plastic and plastic products which are dealt in the manufacture and distribution of plastic material (except commodities in bulk)* from MA and NY to points in ME, NH, VT, MA, CT, RI, NY and NJ. Supporting shipper: Mobil Chemical Co., P.O. Box 726, Paramus, NJ 07652.

MC 95490 (Sub-1-3TA), filed March 10, 1981. Applicant: UNION CARTAGE COMPANY, INC., 37 Southwest Cutoff, Worcester, MA 01604. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, DC 20036. *General commodities (except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, those requiring special equipment and commodities in bulk),* between points in ME, MA, NH, RI and CT. Supporting shipper: None. Applicant has appended a statement alleging immediate and urgent need.

MC 129107 (Sub-1-1TA), filed March 11, 1981. Applicant: R. H. HARDING CO., INC., 100 Centre Drive, Rochester, NY 14623. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Used Motor Vehicles, in secondary movement in truckaway services* between all points on and East of the Mississippi River, including St. Louis, MO, restricted to used motor vehicles which originated at or are destined to automobile auctions. Supporting shipper(s): There are eight shippers in support of this application and their statements may be examined at the I.C.C. Regional Office.

MC 148893 (Sub-1-3TA), filed March 12, 1981. Applicant: WREN TRUCKING, INC., 1989 Harlem Road, Buffalo, NY 14212. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 10443. *Transportation equipment, electric fans, electric heating equipment and materials, supplies and equipment used in the manufacture or distribution of such commodities* between the facilities of Markel-Nutone Division, Scovill located in Buffalo, NY and points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VT, WV, and WI. Supporting shipper: Markel-Nutone Division, Scovill, 601 Amherst Street, Buffalo, NY 14212.

The following applications were filed in region 2: Send protests to: ICC, Federal Reserve Bank Building, 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 154757 (Sub-II-1TA), filed March 16, 1981. Applicant: ATLANTIC TRANSPORT CO., 2152 Hanover Ave., Allentown, PA 18103. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. Contract: Irregular: *Malt beverages, used empty malt beverage containers and related advertising materials,* between PA and NJ, on the one hand, and, on the other, pts. in MD, NC, NJ, NY, PA, WI and ports of entry on the international boundary line between the US and Canada for 270 days. Supporting shipper(s): Banko Beverage Co., 2124 Hanover Ave., Allentown, PA 18103; Eagle Distributing Co., 530 Riverfront Dr., Reading, PA 19602; Stadler Distributing Co., P.O. Box 329, Route 611, Plumsteadville, PA 18949; Warren Distributing Co., 47 Readington Road, Somerville, NJ 08876.

MC 135556 (Sub-II-2TA), filed March 16, 1981. Applicant: CARPENTER BROTHERS TRUCKING, INC., 3282 S.R. 98, Bucyrus, OH 44820. Representative: Gerald P. Wadkowski, 85 E. Gay St., Columbus, OH 43215. Contract, irregular: *glass tubing and packaging material therefore,* between pts. in OH on the one hand, and on the other, pts. in KS, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: the General Electric Co., Nela Park #4504, Cleveland, OH 44112.

MC 152509 (Sub-II-4TA), filed March 16, 1981. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., P.O. Box 5856, Cleveland, OH 44101. Representative: Michael R. Burke (Same as applicant). Contract, irregular: *General commodities (except classes A and B explosives, household goods as defined by the Commission, commodities of unusual value, commodities in bulk, and those requiring the use of special equipment)*, from points in OH and IN to points in IL, IN and KY, under a continuing contract or contracts with Rail-Van, Inc., for 270 days. Supporting shipper: Rail-Van of Cincinnati, 801B W. 8th St., Cincinnati, OH 45203.

MC 140889 (Sub-II-12TA), filed March 17, 1981. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. *Contract, irregular:* Electrical conduit, fittings, accessories and materials and supplies used in the installation, manufacture and distribution thereof. Between facilities located in Cuyahoga County, OH, on the one hand, and, on the other hand, to points in CA, OR, TX and IL, for 270 days. An underlying ETA seeks 120 days authority. Shipper: Electroline Manufacturing Inc., Electroline Corporation, 8702 Bessemer Ave., Cleveland, OH.

MC 154758 (Sub-II-1TA), filed March 16, 1981. Applicant: HARRY J. MILLER, R.D. No. 4, Box 467, Williamsport, PA 17701. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Scrap Metal*, between Williamsport, Milton and Avis, PA, on the one hand, and, on the other, NY, NJ, MD and DE, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Staiman Brothers, P.O. Box 1235, Williamsport, PA 17701.

MC 150339 (Sub-II-33TA), filed March 16, 1981. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: Canned foodstuffs*, from Hanover, PA, to points in NC and SC, under continuing contract(s) with Hanover Brands, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hanover Brands, Inc., R.D. No. 3, Hanover, PA 17331.

MC 147655 (Sub-II-4TA), filed March 16, 1981. Applicant: PAYNE, INC., P.O. Box 112, Brandy Station, VA 22714. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. *Pallets, materials, supplies, and equipment* used in the manufacture of pallets, between Louisa County, VA, on the one hand, and, on the other, points in the U.S. in and east of TX, OK, KS, NE, SD, and ND. An underlying ETA seeks 120 days authority. Supporting shipper: Dominion Pallet, Route 3, Mineral, VA 23117.

MC 21866 (Sub-II-41TA), filed March 16, 1981. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Plastic products*, from the facilities of Harvel Plastics, Inc. at Fork Township (Northampton County), PA to Miami, FL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Harvel Plastics, Inc., P.O. Box 757, Easton, PA 18042.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 110166 (Sub-3-2TA), filed March 13, 1981. Applicant: TENNESSEE CAROLINA TRANSPORTATION, INC., 40 Nance Lane, P.O. Box 100943, Nashville, TN 37210. Representative: Howard Neal (Same address as applicant). *Common* carrier: Regular routes: *Plant Growth Regulators and other agricultural related products* serving Tunica, MS via U.S. Highway 61 as an off-route point in connection with presently authorized service. Applicant plans to tack to existing authority and interline with carriers at Asheville, NC; Charlotte, NC; Columbia, SC; Knoxville, TN; Memphis, TN; Nashville, TN. Supporting shipper: Drexel Chemical, 2487 Penn., Memphis, TN 38109.

MC 106074 (Sub-3-21TA), filed March 13, 1981. Applicant: B AND P MOTOR LINES INC., Shiloh Rd. and U.S. Hwy. 221 S., Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Such merchandise as is dealt in by food business houses and materials, ingredients and supplies used in their manufacture and distribution* between pts. in the states of OH and SC on the one hand, and, on the other, pts. in the states of AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MI, MN, MO, MS, MT, NC, ND, NE, NM, NV, OH, OK, OR, SC, SD, TN, TX, VT, VA, WA, WI, WV, and WY. Restricted to traffic origniating at or destined to the facilities utilized by Stouffer Foods Corporation. Supporting shipper: Stouffer Foods Corporation, 5750 Harper Rd., Solon, OH 44139.

MC 106074 (Sub-3-23TA), filed March 17, 1981. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221 S., Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Glass fiber, rovings, yarn or strand, mats or matting, glass fiber, fabric woven from glass fibers, and waste glass fiber*, between Cleveland and Davidson Counties, NC, on the one hand, and on the other, pts. in AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, ND, OH, OK, SD, and WI. Supporting shipper: PPG Industries, Ind., One Gateway Center, Pittsburgh, PA 15222.

MC 124154 (Sub-3-20TA), filed March 13, 1981. Applicant: WINGATE TRUCKING CO., INC., P. O. Box 645, Albany, GA 31703. Representative: W. D. Wingate (Same address as applicant). *Minerals, ores, refractories and refractory products, kaolin clay, chemicals, machinery, lumber and millwork* between points in Aurura and Chicago Hts., IL, Vandalia and St. Louis, MO, Camden, NJ, Pt. Kennedy, PA, Siloam, KY, Brownsville, TX, Andersonville, Sandersville and Washington, GA, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: C-E Industrial Products Group, Combustion Engineering, Inc., P.O. Box 828, Valley Forge, PA 19482.

MC 136123 (Sub-3-13TA), filed March 13, 1981. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: William L. Beasley (same as above). *Commodities as are dealt in by manufacturers of skin care products and dermatological products* between the facilities of Westwood Pharmaceuticals, Inc., of Erie County, NY and points in the US. Supporting shipper: Westwood Pharmaceuticals, Inc., 464 Dewitt Street, Buffalo, NY 14213.

MC 106074 (Sub-3-20TA), filed March 13, 1981. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221, S., Forest City, NC 28045. Representative: Clyde W. Carver, Atty., P.O. Box 720434, Atlanta, GA 30328. *Chemicals, dyes and related products*, from the facilities of Hoechst Fibers Industries at or near Mount Holly and Charlotte, NC to Houston, TX and pts. in IL and IA. Supporting shipper: Hoechst Fibers Industries, P.O. Box 5887, Spartanburg, SC 29304.

MC 115311 (Sub-3-20TA), filed March 13, 1981. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *White cement, in bags*, from the facilities of General Portland, Inc., Signal Mountain Division, at or near Tampa, FL to the facilities of General Portland, Inc., Signal Mountain

Division, at or near Atlanta, GA and Chattanooga and Knoxville, TN. Supporting shipper: General Portland, Inc., Signal Mountain Division, 1300 American National Bank Bldg., Chattanooga, TN 37402.

MC 121081 (Sub-3-6TA), filed March 13, 1981. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Petroleum and petroleum products and sound deadening compounds (except in bulk)*, between Congo and St. Marys, WV, on the one hand, and, on the other, points in NC and SC. Supporting shipper: Stewart Supply Co., Inc., P.O. Box 5467, Charlotte, NC 28225.

MC 144715 (Sub-3-11TA), filed March 16, 1981. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 542 West Independence Blvd., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. *Such commodities as are dealt in by institutional food distributors*, between Hurricane, WV, and points in its commercial zone, on the one hand, and, on the other, points in the US. Supporting shipper: Standard Food Service Company, Inc., 2575 Virginia Avenue, Hurricane, WV 25526.

MC 144503 (Sub-3-14TA), filed March 13, 1981. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Charles L. Redel, 212 Hoeschler Exchange Building, La Crosse, WI 54601. *Such merchandise as is dealt in by retail, wholesale and industrial food business houses*, between Lucas, Ottawa, Franklin and Madison Counties, OH; St. Charles, St. Bernard, Jefferson, Lafourche, St. James and Plaquemines Parishes, LA; St. Louis and St. Charles Counties, MO; Washington, Anoka, Hennepin, Ramsey, Carver, Scott and Dakota Counties, MN; Wyandotte, Leavenworth and Johnson Counties, KS; Lake, DuPage, Cook and Will Counties, IL; Roanoke, Bedford, Franklin and Montgomery Counties, VA; Gwinnett, DeKalb, Cobb, Fulton, Clayton, Muskogee and Rockdale Counties, GA; Bucks County, PA; Hillsborough, Polk and Lake Counties, FL; and, Monroe and Orleans Counties, NY, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Purex Corporation, 6120 N. Detroit, Toledo, OH 43612.

MC 148800 (Sub-3-1TA), filed March 17, 1981. Applicant: ATLANTA-CHARLOTTE EXPRESS, INC., P.O. Box 31004, Charlotte, NC 28231. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *Contract* carrier; irregular: *general commodities (except classes A & B explosives)*, between points in the U.S., under continuing contract(s) with Westransco Freight Company of Los Angeles, CA. Supporting Shipper: Westransco Freight Company, P.Q. Box 54810, Los Angeles, CA 90054.

MC 150235 (Sub-3-9TA), filed March 13, 1981. Applicant: POWELL TRUCKING CO., INC., Route 3, Box 13, P.O. Box 346, Sumrall, MS. 39482. Representative: Fletcher W. Cochran, 1338 Gause Blvd.—Suite 300, P.O. Box 741, Slidell, LA. 70459. *Contract:* Irregular: *Forest products, lumber and wood products* between points in the US, under a continuing contract or contracts with Alabama Wood Treating Corporation, Mobile, AL; Klumb Lumber Company, Inc., Crystal Springs, MS; and American Creosote Works, Inc., Jackson, TN. Supporting Shippers: Alabama Wood Treating Corporation, P.O. Box 310, Mobile, Al. 36601; Klumb Lumber Company, Inc., P.O. Box 550, Crystal Springs, MS. 39059; and American Cresosote Works, Inc., Meadow Street, Box 1444, Jackson, TN. 38301.

MC 154749 (Sub-3-1TA), filed March 13, 1981. Applicant: G. M. LANGDON TRUCKING, INC., Route 1, Angier, NC 27501. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Fertilizer and fertilizer materials* between points in NC, SC, and VA. Supporting Shipper(s): W. R. Grace & Co., Agricultural Chemicals Group, P.O. Box 368, Wilmington, NC 28401.

MC 134038 (Sub-3-1TA), filed March 16, 1981. Applicant: MAJORS TRANSIT, INC., P.O. Box 7, Caneyville, KY 42721. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Common* carrier; regular routes; *General Commodities, except classes A and B explosives*, between Louisiville, KY (and its Commerical Zone) and Nashville, TN (and its Commercial Zone), serving the intermediate points of Bowling Green, KY and Franklin, KY: from Louisville over U. S. Hwy. 31-W to Nashville and return over the same route. Applicant intends to tack the authority sought with its existing authority and to interline with connecting carriers at Louisville, KY & Nashville, TN. Supporting Shippers: There are approximately seven statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 154751 (Sub-3-1TA), filed March 17, 1981. Applicant: SUN COAST TRANSPORT CORPORATION, 4608 Cooper Place, Tampa, FL 33684. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Citrus pellets and pulp*, between points in FL. Supporting shippers: Central Sunshine Enterprises, Inc., P.O. Box 9491, Winter Haven, FL 33880; and I.S. Joseph Co., Inc., P.O. Box 19127, Tampa, FL 33686. .

MC 39406 (Sub-3-1TA), filed March 17, 1981. Applicant: CENTRAL MOTOR LINES INCORPORATED, P.O. Box 34303, Charlotte, N.C. 28234. Representative: Garland V. Moore (same as above). *General Commodities (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment)* between points in GA, NC and SC, on the one hand, and, on the other, points in IL, IN, KY, OH, TN, VA and WV. Carrier desires to interline with connecting carriers at Asheville, NC, Chicago, IL, Charlotte, NC, Grassy Creek, NC, Greensboro, NC, Mt. Airy, NC, Reidsville, NC, Toledo, OH and Winston Salem, NC. Supporting shipper(s): Thirteen (13) certificates of support attached to this application which may be reviewed at the Atlanta, GA, regional office.

MC 117956 (Sub-3-13TA), filed March 17, 1981. Applicant: SCOTT TRANSFER CO., INC., 1134 Sylvan Road, SW, Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Contract Carrier: *General commodities with the usual exceptions for the account of Fraenkel Wholesale Furniture Co., Inc.*, between points in the U.S., except AK and HI under a continuing contract with Fraenkel Wholesale Furniture Co., Inc., 10600 So. Choctaw, Baton Rouge, LA 70895.

MC 7555 (Sub-3-2TA), filed March 16, 1981. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Ellerbe, NC 2838. Representative: Terrence D. Jones, 2033 K Street, N.W., Washington, D.C. 20006. *Chemicals and related products (except in bulk) and materials, equipment, and supplies used in the manufacture and distribution of such commodities (except in bulk)* between the facilities of Time Chemical, Inc. at Atlanta, GA and Chicago, IL, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA. Supporting shipper: Time Chemical, Inc., 3780 Browns Mill Rd., S.E., Atlanta, GA 30354.

MC 106074 (Sub-3-22TA), filed March 17, 1981. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221 S, Forest City, NC 28043. Representative: Clyde W. Carver, Atty.,

P.O. Box 720434, Atlanta, GA 30328. *Textiles and textile products* from pts. in GA, NC and SC to pts. in the U.S. in and west of MN, IA, MO, AR and LA (except HI and AK). Supporting shippers: Phillips Fibers Corporation, P.O. Box 66, Startex, SC 29377; Spectrum Fibers, Inc., P.O. Box 509, Kings Mountain, NC 28086; Reeves Brothers, Inc., P.O. Box 1898, Spartanburg, SC 29304; Ti-Caro, Inc., P.O. Box 699, Gastonia, NC 28051; and Parkdale Mills, Inc., P.O. Drawer 1787, Gastonia, NC 28052.

MC 152150 (Sub-3-1TA), filed March 19, 1981. Applicant: KIRK TRUCKING, INC., 3584 Bellwood Cove, Memphis, TN 38128. Representative: R. Connor Wiggings, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Manganese, silicone and silica carbide* (1) from Calvert City and Hickman, KY; Birmingham and Sheffield, AL; to facilites of Specialty Alloys Corporation at or near Gallaway, TN; and (2) from facilities of Specialty Alloys Corporation at or near Gallaway, TN; to Bessemer, Holt, Birmingham and Anniston, AL; Corsicana, Lufkin and Tyler, TX; Council Bluffs, IA; Hartford, IL; Iola, Kansas City, Coffeyville and Wichita, KS; Indianapolis, IN; Kansas City, Springfield, New Madrid and St. Louis, MO; Louisville, KY; Lynchburg, VA; Olive Branch, MS; and West Memphis, AR. Supporting shipper: Specialty Alloys Corporation, P.O. Box 56, Gallaway, TN 38036.

MC 153557 (Sub-3-2TA), filed March 19, 1981. Applicant: MOTOR INDUSTRIES, INC., 1203 Audubon Parkway, Louisville, KY. 40213. Representative: Michael Surface, 8111 Huntsman Trail, Louisville, KY. 40213. *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 Jefferson County, Kentucky on the one hand, and on the other, points in Warren, Barren, Allen, and Logan Counties, Kentucky on shipments having prior or subsequent movement in Interstate Commerce. There are eleven supporting shippers which are on file at the Interstate Commerce Commission Regional Office in Atlanta, GA.

Note.—Applicant intends to tack with existing authority MC-153557 and to interline at Louisville, KY.

MC 154795 (Sub-3-1TA), filed March 18, 1981. Applicant: MMR, INC., 3528 Whippoorwill Road, Louisville, KY 40213. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Contract carrier, *such commodities as are dealt in or used by railroads,* between Louisville, KY and its commercial zone, on the one hand, and, on the other, points in AL, FL, GA, IL, IN, LA, MS, MO, NC, OH, SC, TN, and VA, under contract with L & N Railroad. Supporting shipper: L & N Railroad, 2500 South Floyd Street, Louisville, KY 40217.

MC 154509 (Sub-3-1TA), filed March 18, 1981. Applicant: MEMPHIS COURIER DELIVERY, 3638 Old Getwell Road, Memphis, TN 38118. Representative: Ralph D. Golden, Suite 2348, 100 North Main Building, Memphis, TN 38103. *Goods, materials, merchandise, supplies, toiletries, cosmetics, and other products manufactured, distributed, and sold by Avon Products, Incorporated* from all points in the states of TN, AR, MS, AL, and MO to all points in the states of TN, AR, MS, AL, and MO. Supporting shipper: Avon Products Inc. 2200 Cotillion, Chamblee, GA 30302.

MC 124887 (Sub-3-14TA), filed March 18, 1981. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Metal products,* from Houston, TX to points in AL, FL, GA, LA, and MS. Supporting shipper: Texas Pipe and Supply Company, 2330 Holmes Road, Houston, TX 77051; Capitol Steel, Inc. 2655 North Foster Drive, Baton Rouge, LA 70806; Trailer and Manufacturing Industries, Inc. 8516 Hempstead Highway, Houston, TX 77008.

MC 154170 (Sub-3-1TA), filed March 19, 1981. Applicant: BUNYON TRUCKING COMPANY, INC., 6500 Mt. Zion Blvd., Morrow, GA 30260. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd. NE., 5th Floor—Lonox Towers South, Atlanta, GA 30326. *Contract:* Irregular *(1) Horticultural Supplies and Equipment (except in bulk); and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above (except in bulk)* between Morrow, GA; Copley, OH; Philmont, NY; and Hudson, NY; on the one hand, and, on the other, points in the US. Supporting shipper: Bunyon Enterprises, Inc. and The Hyponex Company, 6500 Mt. Zion Blvd., Morrow, GA 30260.

MC 153509 (Sub-3-9TA), filed March 19, 1981. Applicant KENTUCKY DISPATCH INC., 3303 Camp Ground Rd., Louisville, KY 40216. Representative: James B. Murphy, 835 West Jefferson St., Suite 102, Louisville, KY 40202. *Contract;* irregular; *bakery goods, O/T Frozen N.O.I. item 21180 N.M.F.C. and materials, equipment, and supplies used in the manufacture of these commodities,* between Louisville, KY, on the one hand, and on the other, points in the U.S. under continuing contract with Mothers Cookie Company. Supporting shipper: Mothers Cookie Company, 2287 Ralph Avenue, Louisville, KY 40206.

MC 152630 (Sub-3-1TA), filed March 19, 1981. Applicant: KAY LEASE SERVICE, INC., P.O. Box EE, Natchez, Mississippi 39120. Representative: John Schwab, 617 North Boulevard, P.O. Box 3036, Baton Rouge, Louisiana 70821. *(1) machinery, equipment, materials, and supplies used, in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof,* between points in LA, TX, MS, and OK. Supporting shippers: There are six supporting shippers whose statements may be examined at the ICC Regional Office in Atlanta, GA.

MC 154770 (Sub-3-1TA), filed March 18, 1981. Applicant: J. B. & J. COMPANY, INC., P.O. Box 303, Tuscumbia, AL 35674. Representative: Joe Trobaugh, P.O. Box 303, Tuscumbia, AL 35674. *(1) Construction Materials, including, but Not Limited to, lumber, plywood, paneling, fiberboard, particleboard, fiberglass roofing, fiberglass panels, fiber cores, and fiber core containers; and (2) Materials, supplies and equipment used in the manufacture, sale and distribution of commodities named in (1) above (except commodities in bulk)* between points in AL, MS, GA, FL, LA, KY, and TN. Supporting shipper: Clevepak Corporation, Colbert Industrial Park, Tuscumbia, AL.

MC 107912 (Sub-3-6TA), filed March 18, 1981. Applicant: REBEL MOTOR FREIGHT, INC., 3934 Homewood, Memphis, TN 38118. Representative: Mark R. Allen, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Textile products and materials, equipment and supplies used in the manufacture or distribution thereof,* between Batesville, MS and St. Martin County, LA. Applicant requests to tack this authority to authority held under MC-107912 and subs there to. Supporting shipper: Union Underwear Co., Inc., One Fruit of the Loom Drive, Bowling Green, KY 42101.

MC 151009 (Sub-3-2TA), filed March 19, 1981. Applicant: ATLANTA CARRIERS, INC., 1260 Southern Rd.,

Morrow, GA 30260. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., NE., Atlanta, GA 30326. *Contract carrier;* irregular routes; *General commodities except Class A and B explosives* between points in the U.S., restricted to traffic moving under a continuing contract or contracts with PPG Industries, Inc. Supporting shipper: PPG Industries, Inc., 1377 Oakleigh Dr., East Point, GA 30344.

MC 154006 (Sub-3-1TA), filed February 11, 1981. Applicant: A. R. MANN, JR. & W. J. MANN, d.b.a. MANN TRUCKING CO., P.O. Box 277, Skene, MS 38775. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Steel nails* from Rosedale, MS, to Cleveland, MS, having a prior movement by water. Supporting shipper: Duo Fast Corporation, 800 North Pearman, Cleveland, MS 38732.

MC 59150 (Sub-3-15TA), filed March 17, 1981. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval Street, Jacksonville, FL 32202. *Contract,* irregular; *General Commodities (except Classes A & B Explosives),* between points in the United States in and east of ND, SD, NE, KA, OK and TX under a continuing contract or contracts with Clow Corporation. Supporting shipper: Clow Corporation, 1211 West 22nd Street, Oak Brook, IL 60521.

MC 153677 (Sub-3-1TA), filed March 17, 1981. Applicant: BILLY HARRIS TRUCKING CO., Route 4, Box 139A, Henderson, NC 27536. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. *Contract carrier:* irregular routes: *General Commodities (except classes A & B explosives and hazardous wastes),* between the facilities of Rose's Stores, Inc. at or near Henderson, NC, on the one hand, and, points in the U.S., under continuing contract(s) with Rose's Stores, Inc. of Henderson, NC. Supporting shipper: Rose's Stores, Inc., Henderson, NC 27536.

MC 143351 (Sub-3-1TA) filed March 17, 1981. Applicant: DANTRAC, INC., 602 Airport Road, Greenville, SC 29606. Representative: Clyde W. Clyde, Atty., P.O. Box 720434, Atlanta, GA 30328. *Textiles and textile products* from pts. in GA, NC and SC to pts. in the U.S. in and west of MN, IA, MO, AR, and LA (except HI and AK). Supporting shippers: Phillips Fibers Corporation, P.O. Box 66, Startex, SC 29377; Spectrum Fibers, Inc., P.O. Box 509, Kings Mountain, NC 28086; Reeves Brothers, Inc., P.O. Box 1898, Spartanburg, SC 29304; Ti-Caro, Inc., P.O. Box 699, Gastonia, NC 28051; and The Bibb Company, 237 Coliseum Drive, Macon, GA 31201.

MC 143059 (Sub-3-39TA), filed March 17, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same as applicant). *Metal products,* between points in the U.S. (except AK and HI), restricted to the transportation of traffic moving for the account of Metalsco, Inc. Supporting shipper: Metalsco, Inc., 111 West Port Plaza, Suite 822, St. Louis, MO 63141.

MC 154781 (Sub-3-1TA), filed March 17, 1981. Applicant: K & K WAREHOUSE CO., INC., P.O. Box 7088, Knoxville, TN 37921. Representative: M. C. Ellis, c/o Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402, (615) 756-3620. *Contract carrier;* irregular routes; (A)(1) *glass and glass products and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities named in (A)(1) above; (B)(1) food and related products and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities named in (B)(1) above,* between points in Ventura County, CA; Hawkins, Sullivan, and Washington Counties, TN; and Taylor County, WV; on the one hand and, on the other, points in the U.S. under continuing contract(s) with (1) AFG Industries, Inc., of Kingsport, TN, (2) Saticoy Foods Corporation of Santa Paula, CA, and (3) Moody Dunbar, Inc., of Limestone, TN. Supporting shipper(s): AFG Industries, Inc., P.O. Box 929, Kingsport, TN, 37662; Saticoy Foods Corporation, P.O. Box 4547, Santa Paula, CA, 93003; and Moody Dunbar, Inc., P.O. Box 68, Limestone, TN, 37681.

MC 143059 (Sub-3-40TA), filed March 17, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same as applicant). *Lumber, lumber products and forest products,* from points in LA and AR, to points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shippers: There are five (5) statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 143059 (Sub-3-38TA), filed March 17, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same as applicant). *Laminated plywood and particle board,* from points in Elkhart County, IN, to points in MI, MD, PA, NE, TX and KS. Supporting shippers: Lasalle Deitch—Bristol Laminating Division State Road 15 N., P.O. Box 296, Bristol, IN 46507; B & P Woodgrain Paneling, Inc., 1806 Conant Street, Elkhart, IN 46517.

MC 115840 (Sub-3-11TA), filed March 17, 1981. Applicant: COLONIAL FAST FREIGHT LINES, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same as above). *Plastic pipe* from Nashville, TN to points in KY, MS, FL, AL and GA. Supporting shipper: Consolidated Pipe & Supply Co., Inc., 1500 County Hospital Road, Nashville, TN 37208.

MC 154732 (Sub-3-1TA), filed March 17, 1981. Applicant: HARPER TRANSPORT, INC., 3313 Concord Corner, Conyers, GA 30208. Representative: Huey Harper (same as above). *Contract carrier,* irregular routes; *Paints, stains, varnishes and associated paint products and paint raw materials other than in bulk or in tank vehicles,* between Stone Mountain, GA, on the one hand, and, on the other, points in the U.S., except AK and HI. Supporting shipper: Southland Paint Company, Inc., 1625 Stoneridge Dr., Stone Mountain, GA 30083.

MC 148620 (Sub-3-6TA), filed March 17, 1981. Applicant: K.G.L. CONTRACTING SERVICES, INC., P.O. Box 8202, Pembroke Pines, FL 33024. Representative: Robert W. Gerson, 1400 Candler Building, 127 Peachtree Street NW., Atlanta, GA 30043. *Contract carrier,* irregular routes; *general commodities (except household goods as defined by the Commission and Classes A & B explosives),* between points in the U.S., under continuing contract(s) with United Freight, Inc., Morrow, GA. Supporting shipper(s): United Freight, Inc., 1260 Southern Road, Morrow, GA 30260.

MC 125689 (Sub-3-3TA), filed March 17, 1981. Applicant: BEATTYVILLE TRANSPORT, INC., Ice Dam Lane, P.O. Box 352, Catlettsburg, KY 41129. Representative: Fred H. Daly, 2550 M street NW., Washington, D.C. 20037. *Animal grease, chemicals, petroleum, rolling process fluids and lubricating oils, wire drawing compounds, ingredients and raw materials used in the manufacture of rolling process fluids and lubricating oils,* between Franklin County, OH, on the one hand, and, on the other, points in the U.S. Supporting shipper: The Ironsides Co., 270 West Mound St., Columbus, OH.

MC 145408 (Sub-3-3TA), filed March 13, 1981. Applicant: WILLIAMS CARTAGE COMPANY, INC., P.O. Box

897, Hartsville, SC 29550. Representative: Robert L. McGeorge, 1000 Potomac St. NW., Fifth Floor, Washington, D.C. 20007. *Food and Related Products*, between points in Lee County, SC, on the one hand, and on the other, points in the U.S. Supporting shipper: South Atlantic Canners, P.O. Box 548, Bishopville, SC 29010.

MC 144026 (Sub-3-8), filed March 13, 1981. Applicant: WILLIAMS CARTAGE COMPANY, INC., P.O. Box 897, Hartsville, SC 29550. Representative: Robert L. McGeorge, 1000 Potomac St. NW., Fifth Floor, Washington, D.C. 20007. *Contract carrier*, irregular routes, *General Commodities (except for Class A and B explosives and hazardous materials)* between points in the U.S. under a continuing contract(s) with the A.O. Smith Company. Supporting shipper: A. O. Smith, P.O. Box 28, Kankakee, IL 60901.

MC 124835 (Sub-3-8TA), filed March 13, 1981. Applicant: PRODUCERS TRANSPORT CO., P.O. Box 4022, Chattanooga, TN 37405. Representative: David K. Fox (same address as applicant). *Petroleum, Coal Tar, and their products, in bulk, in tank vehicles*, from Wilmington, NC, to all points in SC, and VA. Supporting shippers: Apex Oil Co., P.O. Box 3365, Wilmington, NC 28406; Travelers Oil Co., P.O. Drawer 3066, Azalea Station, Wilmington, NC 28401; Southern Wood Piedmont, P.O. Box 547, Spartanburg, SC 29304.

MC 154747 (Sub-3-1TA), filed March 13, 1981. Applicant: DANDEN RECONDITIONING CO., Rt. 1 Box 500, Trion, GA 30753. Representative: A. B. Mitchell, Jr., 504 River Lakeside Lane, Woodstock, GA 30188. *Contract carrier*: irregular: *cotton bales and other textile materials and finished products*, from Trion, GA to Ware Shoals, SC; Trion GA to Woodruff SC; Albertville, AL to Trion, GA. Supporting shipper: Riegel Fiber Corp., P.O. Box 7, Trion, GA 30753.

MC 146465 (Sub-3-3TA), filed March 16, 1981. Applicant: LAWRENCE PILGRIM, d.b.a. PILGRIM TRUCKING COMPANY, P.O. Box 877, Cleveland, GA 30528. Representative: Robert E. Born, Suite 508, 1447 Peachtree Street NE., Atlanta, GA 30309. *Metal products*, from the facilities of Kentucky Electric Steel, Inc. in Boyd Cy., KY to points in AL, GA, NC and SC. Supporting shipper: Kentucky Electric Steel, Inc., Box 3500, Ashland, KY 41101.

MC 154754 (Sub-3-1TA), filed March 17, 1981. Applicant: W & W TRUCKING, INC., P.O. Box 9623, Memphis, TN 38109. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *(1) Machinery and machinery parts and components* from Waukesha, Green Bay and Manitowoc, WI, to Memphis, TN, and its commercial zone, and, (2) *machinery and machinery parts and components and bridge beams* between points in AL, AR, IL, KY, LA, MS, MO, OK, TN, TX and IN. There are six supporting shippers.

MC 124154 (Sub-3-21TA), filed March 17, 1981. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31703. Representative: W. D. Wingate (same address as applicant). *Agricultural insecticides, fungicides, fertilizers, etc., and industrial chemicals and materials, supplies and equipment used in the manufacture thereof*, between points in the US (except AK and HI). Supporting shipper: Faesy & Besthoff, Inc., 143 River Road, Edgewater, NJ 07020.

MC 144913 (Sub-3-4TA), filed March 17, 1981. Applicant: COMPTON TRUCKING, INC., 5300 Kennedy Road, Forest Park, GA 30050. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133. *Bananas*, from Gulfport, MS; Mobile, AL; Tampa, FL; Charleston, SC and Miami, FL to Forest Park, GA. Supporting shipper: General Produce, Inc., State Farmers Market, Forest Park, GA 30050.

MC 154697 (Sub-3-1TA), filed March 13, 1981. Applicant: BAKER TRUCK LEASING & SALES, INC., P.O. Box 3126, Highway 301 South, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N Street NW., Suite 700, Washington, DC 20036. *Solar heating systems and materials and supplies used in the manufacture and distribution of solar heating systems* between points in Johnston County, NC on the one hand, and, on the other, points in the U.S. Supporting shipper: Revere Solar & Architectural Products, Inc., P.O. Box 967, Kenly, NC 27542.

MC 152544 (Sub-3-10TA), filed March 13, 1981. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General commodities except classes A and B explosives and hazardous materials*, between Jacksonville, FL, Brenham, TX, Cleveland, OH, Birmingham, MI, Union City, CA, Gadsden, AL, Baltimore, MD and Massillon, OH on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating or destined to the facilities of Cleaners Hangers Co. Supporting shipper: Cleaners Hanger Co., 735 North Lane Avenue, Jacksonville, FL 32205.

MC 149218 (Sub-3-16TA), filed March 13, 1981. Applicant: SUNBELT EXPRESS INC., U.S. Hwy. 78 W., Bremen, GA 30110. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *(1) Pulpboard; (2) Paper Cartons; and (3) Metal containers and closures;* (1) from St. Marys, GA to TX; (2) from Newnan, GA to TX; and (3) from Houston, San Antonio and Arlington, TX to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OH, SC, TN, VA and WV. Restricted to traffic originating at the facilities utilized by American Can Company. Supporting shipper: American Can Company, P.O. Box 489, Newnan, GA 30264.

MC 133920 (Sub-3-2TA), filed March 13, 1981. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, GA 31082. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Clay products*, from Thomas County, GA to points in AL, FL and SC. Supporting shipper: Anschutz Mineral Company, P.O. Box 230, Ochlocknee, GA 21773.

MC 150865 (Sub-3-5TA), filed March 13, 1981. Applicant: ATLANTIC & WESTERN TRANSPORTATION CO., INC., 3934 Thurman Road, Forest Park, GA 30051. Representative: Ronald J. Turner (same as above). *Contract carrier*, irregular: *Furniture, Furniture Parts and Machinery used in the manufacture of furniture*, between Clinton, TN; Hamilton, OH; and St. Louis, MO, on the one hand, and, on the other, all points within the continental U.S. under a continuous contract with James David, Inc., St. Louis, MO. Supporting shipper: James David, Inc., 1950 Craig Road, St. Louis, MO 63141.

MC 147554 (Sub-3-2TA), filed March 13, 1981. Applicant: ARAB CARTAGE AND EXPRESS CO., INC, P.O. Box 217, Arab, AL 35016. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. *Contract carrier*: irregular: *Automotive equipment, motor vehicle parts and automotive after-market products; the parts, materials, supplies and equipment used in the manufacture, sale and distribution of the commodities above;* between the facilities of Formed Tubes, Inc., Grand Exhaust and Original Exhaust Parts and affiliated companies located in or near Haleyville, AL, Chicago, IL and Detroit, MI, on the one hand and on the other all points in states east of NM, CO, WY and MT. Supporting Shipper: Formed Tubes, Inc., P.O. Box 647, Arab, AL 35016.

MC 139743 (Sub-3-1TA), filed March 13, 1981. Applicant: GEORGIA CARPET EXPRESS, INC., P.O. Box 1680, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Floor coverings and related products, and* (2)

materials, equipment and supplies used in the manufacture or distribution of commodities named in (1) above, between points in Bartow, Catoosa, Gordon, Murray and Whitfield Counties, GA, on the one hand, and, on the other, points in AZ and CA. Supporting shipper: GAF Corporation, 1361 Alps Road, Wayne, NJ 07470.

MC 107515 (Sub-3-108TA), filed March 13, 1981. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Electrical fixtures, parts and supplies* from the facilities of Miller Lighting Company, at or near Martin, TN to points in the U.S. (except AK and HI). Supporting shipper: Miller Lighting Company, Box 50, Fulton Highway, Martin, TN 28327.

MC 107515 (Sub-3-107TA), filed March 13, 1981. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd. NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Plastic Articles and materials, supplies and equipment used in the production, sale or distribution thereof* from Chippewa Falls and Eau Claire, WI to points in the U.S. (except AK and HI). Supporting shipper: Amoco Foam, 2100 Powers Ferry Road, Suite 200, Atlanta, GA 30099.

MC 107515 (Sub-3-106TA), filed March 13, 1981. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd.NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Plastic Articles, expanded and non-expanded* between the facilities of, or those utilized by, Amoco Foam Products, on the one hand, and, on the other points in the US (except AK and HI). Supporting shipper: Amoco Products Division, Suite 200, 2111 Powers Ferry Road NW., Atlanta, GA 30339.

The following applications were filed in region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 8472 (Sub-4-2TA), filed March 17, 1981. Applicant: SOUTH END CARTAGE CORP. OF DELAWARE, 4222 South Knox Avenue, Chicago, Ill. 60632. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, Il 60603. *Contract: General Commodities, except Classes A and B Explosives,* between points in the U.S. Restricted to traffic moving under continuing contract with C.S. Greene and Company, and its subsidiaries. Supporting Shipper: S. S. Green and Company, and its subsidiaries., 2803 Butterfield Road, Oak Brook, IL 60521. An underlying ETA seeks 120 days.

MC 107295 (Sub-4-34TA), filed March 18, 1981. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *General commodities (except Class A and B explosives),* between points in the U.S. (except AK and HI), under continuing contract with Ardan, Inc. Supporting Shipper: Ardan, Inc., 2320 Euclid Ave., Des Moines, IA 50310.

MC 114194 (Sub-4-15TA), filed March 18, 1981. Applicant: KREIDER TRUCK SERVICE, INC., 1600 Collinsville Ave., Madison, IL 62060. Representative: William J. O'Donell (same as applicant). *Petroleum coke and lignite* from the East St. Louis, IL commerical zone to Belle, MO. Supporting Shipper: Kingsford Company, 1700 Commonwealth Bldg., Louisville, KY 40201.

MC 114194 (Sub-4-16TA), filed March 18, 1981. Applicant: KREIDER TRUCK SERVICE, INC., 1600 Collinsville Ave., Madison, Il 62060. Representative: William J. O'Donell (same as applicant). *Chemicals, dry, in bulk, from* El Dorado, AR to Mt. Vernon, IL. Supporting Shipper: Great Lakes Chemical Corp., P.O. Box 1878, El Dorado, AR 71730.

MC 117730 (Sub-4-12TA), filed March 18, 1981. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, 33 N. LaSalle St., Chicago, IL 60602. *Canned goods, and materials, supplies, and equipment used in the manufacture and distribution of canned goods,* between the facilities of Beckman & Gast at St. Henry, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OK, PA, SC, TN, TX, VA, WV, and WI. Supporting Shipper: Beckman & Gast, P.O. Box 307, St. Henry, OH 45883.

MC 118612 (Sub-4-8TA), filed March 12, 1981. Applicant: Columbia Trucking, Inc., 700 131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. *Petroleum or coal products* Between Lake County, IN and Detroit, MI and points in the Detroit, MI commercial zone. Supporting shipper: Industrial Fuel and Asphalt of Indiana, Inc., 4240 White Oak Ave., Hammond, IN 46320.

MC 135052 (Sub-4-11TA), filed March 17, 1981. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. *Fiberglass and plastic reinforced products, and continuous-strand textile products, and materials, equipment and supplies used in the manufacture and sale thereof,* between Lexington, North Carolina, and Shelby, North Carolina, on the one hand, and, on the other, points in the states of IN, IL, OH, KY, MI, MO, WI and TN. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 136512 (Sub-4-3TA), filed March 17, 1981. Applicant: SPACE CARRIERS, INC., 444 Lafayette Road, St. Paul, MN 55101. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Paper bags, paper rolls, and materials, equipment and supplies used in the manufacture of paper bags and paper rolls,* between Hudson, WI, on the one hand, and, on the other, points in AR and OK. Supporting shipper: Duro Paper Bag Manufacturing Company, Route 1, Box 247, Hudson, WI 54016.

MC 136774 (Sub-4-6TA), filed March 17, 1981. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Liquid orange juice concentrate,* between points in FL on the one hand, and, on the other, Leavenworth County, KS. Supporting shipper: Meyer Dairy, Inc., Basehor, KS 66007.

MC 138420 (Sub-4-4TA), filed March 18, 1981. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Route 1, P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Paper, paper products, plastic articles, and materials, equipment, and supplies used or useful in the manufacture and distribution of paper, paper products, and plastic articles* between the facilities of Continential Forest Industries, a member of Continental Group, Inc., at Reading and Philadelphia, PA; Melvindale, Midland and Three Rivers, MI; Overland, MO; Van Wert, Columbus, and Cleveland, OH; and Louisville, KY on the one hand, and on the other points in IL, IN, IA, KY, MI, MN, MO, OH, PA, TN, and WI. Supporting shipper: Continental Group, Inc.-Continental Forest Industries, Office Park 2, Greenwich, CT 06830.

MC 142310 (Sub-4-9TA), filed March 13, 1981. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Michael J. Wyngaard,

150 East Gilman Street, Madison, WI 53703. (1) *Foodstuffs* from Burley, ID, Ontario, OR, Greenville, MI, Massillon, OH Wethersfield, CT and West Chester, PA to points within the U.S. (except AK and HI). (2) *Foodstuffs, materials, equipment and supplies used or useful in the manufacture sale and distribution of foodstuffs* from points within the U.S. (except AK and HI) to Burley, ID, Ontario, OR, Greenville, MI, Massillon, OH, Wethersfield, CT and West Chester, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., 220 W. Parkcenter Boulevard, Boise, ID.

MC 143627 (Sub-4-1TA), filed March 18, 1981. Applicant: FITZSIMMONS TRUCKING, INC., P.O. Box 128, Waseca, MN 56093. Representative: William L. Libby, 8214 West 34½ Street, St. Louis Park, MN 55426. *Air heating and filtration equipment and materials, equipment, and supplies used in the manufacture thereof,* between Wasecan MN, on the one hand, and, on the other, points in the U.S. Supporting shipper: Petco, Inc., 279 West Elm Street, Waseca, MN 56093.

MC 145042 (Sub-4-6TA), filed March 17, 1981. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Avenue, Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Building, Lansing, MI 48933. *Foundry supplies and materials used in foundry production (not in bulk)* between various points in AL, FL, IL, IA, KS, MI, MN, MS, NC, OH, PA, SD, TN, WV, and WI. Supporting shipper: Carpenter Brothers, Inc., 793 W. Western Ave., Muskegon, MI 49440.

MC 146121 (Sub-4-2TA), filed March 18, 1981. Applicant: BAY CARTAGE COMPANY, 1122 East Barney, Muskegon, MI 49444. Representative: William H. Heritage, Jr., Landman, Luyendyk, Latimer, Clink & Robb, 444 Union Bank Plaza, Grand Rapids, MI 49503. *Contract: Paper and paper products and materials, equipment and supplies; plastic articles expanded, polyurethane and materials, equipment and supplies used or useful in the manufacture and distribution of the above products* between points in the U.S. under continuing contract with Scott Paper Company, Philadelphia, PA. Supporting shipper: Scott Paper Company, Scott Plaza II, Philadelphia, PA 19113.

MC 146742 (Sub-4-2TA), filed March 17, 1981. Applicant: H & F TRUCKING CO., INC., R.R. #4, Mattoon, IL 61938. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. (1) *Printed matter* and (2) *materials, equipment and supplies* used in the processing and distribution of printed matter between points in Jefferson and Marion Counties, IL on the one hand, and, on the other, the Chicago, IL commercial zone. An underlying ETA seeks 120 days authority. Supporting shippers: World Color Press, Inc., P.O. Box 1248, Effingham, IL 62401, and Chi-Can Freight Forwarding Company, 3600 Southwestern Ave., Chicago, IL 60609.

MC 147264 (Sub-4-12TA), filed March 17, 1981. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47304. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Drugs, plastic articles, food and related products,* from Columbus, OH to points in AL, AR, GA, KY, LA, MS, and TN. Supporting shipper: Ross Laboratories, 625 Cleveland Ave., Columbus, OH 43216.

MC 148732 (Sub-4-1TA), filed March 16, 1981. Applicant: L & J TRUCKING, INC., P.O. Box 1325, Wisconsin Rapids, WI 54494. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Nonmetallic minerals and water proofing compounds* between Cleveland, OH, San Francisco, CA and Dallas, TX, on the one hand, and, on the other, points in MI, OH, IN, MO, IA, WI, MN, ND, SD, NE, KS, CO, WY, MT, ID, WA, OR, CA, NV, UT, AZ, NM, TX and OK. An underlying ETA seeks 120 days authority. Supporting shipper: Effective Building Products Inc., 2950 Meto Drive, Bloomington, MN 55420.

MC 152935 (Sub-4-2TA), filed March 17, 1981. Applicant: HILL-ROM COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham (same address as applicant). *Contract: Bathroom fixtures and furnishings,* from Torrance, CA, to points in Kent, OH; Atlanta, GA; Bridgeton, MO; Houston, TX; Detroit, MI; and Milwaukee, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Perma-Bilt Industries, 19306 S. Normandie Ave., Torrance, CA 90502.

MC 152935 (Sub-4-3TA), filed March 17, 1981. Applicant: HILL-ROM CO., INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham (same address as applicant). *Contract: Bedroom furniture* from Phoenix, AZ to points in Cincinnati, Cleveland, Columbus, Dayton and Toledo, OH; South Bend and Terre Haute, IN; Louisville, KY; Rockford and Springfield, IL; Madison and Milwaukee, WI; Memphis and Nashville, TN and Cedar Rapids and Grand Mound, IA. An underlying ETA seeks 120 days authority. Supporting shipper: Woodstuff Manufacturing, 1635 So. 43rd Ave., Phoenix, AZ 85009.

MC 153158 (Sub-4-1TA), filed March 17, 1981. Applicant: KELLY TRUCKING COMPANY, INC., 162 Grand Ave., Elmhurst, IL 60126. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. *Contract: Steel sheets, coils, bars and angles,* between points in the states of IL, WI, MI, MN, IN and OH, on the one hand, and, on the other, Bensenville, IL. An underlying ETA seeks 120 days authority. Supporting shipper: Eagle Steel Corporation, 1339 W. Irving Place, Bensenville, IL.

MC 154460 (Sub-4-1TA), filed March 18, 1981. Applicant: Q CARRIERS INC., 14086 Rutgers Street NE., Prior Lake, MN 55372. Representative: Randall Quiring, 14086 Rutgers Street NE., Prior Lake, MN 55372. *Contract: Such commodities as are dealt in or used by fabric and home sewing stores,* between points in the U.S. under continuing contract(s) with Minnesota Fabrics Inc., Charlotte, NC 28232.

MC 154740 (Sub-4-1TA), filed March 17, 1981. Applicant: LAWRENCE R. JOHNSTON d.b.a. ODESSA TRANSPORTATION, 4525 S. Halsted, Chicago, IL 60609. Representative: Robert E. Knoppe, 79 W. Monroe St., Suite 500, Chicago, IL 60603. *Contract: Bakery products, and material, equipment and supplies used in the sale, manufacture and distribution thereof* between Chicago, IL and points in KY, OH, MO, IN, MN, CO. An underlying ETA seeks 90 days authority. Supporting shipper: East Balt Commissary, Inc., 1801 W. 31st Street, Chicago, IL 60608.

MC 154769 (Sub-4-1TA), filed March 18, 1981. Applicant: ABRANAMSON EXPRESS, INC., R.R. 3, Box 43, Waupaca, WI 54981. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract: Foundry castings and foundry products, and materials, equipment and supplies used in the manufacture of foundry castings and foundry products* between Marinette and Waupaca, WI, on the one hand, and, on the other hand, points in IA, IL, IN, MN, MO and OH. Restricted to transportation to be performed under a continuing contract(s) with Waupaca Foundry, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Waupaca Foundry, Inc., Tower Road, Waupaca, WI 54981.

MC 107295 (Sub-4-35TA), filed March 19, 1981. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *Lighting equipment, fixtures and materials, equipment and supplies used in the*

installation, manufacture or distribution of commodities named above, between Cochran, Conyers, and Decatur, GA; Crawfordsville, IN; Chicago, IL and Vermillion, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities utilized by National Service Industries, Inc., Lithonia Lighting Division. Supporting shipper: National Service Industries, Inc., Lithonia Lighting Div., Box A, Conyers, GA 30207.

MC 112893 (Sub-4–5TA), filed March 20, 1981. Applicant: BULK TRANSPORT COMPANY, 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. *Petroleum products* from Green Bay, WI to Menominee County, MI. Supporting shipper: Rowley Oil Co., Inc., P.O. Box 672, Marinette, WI 54143.

MC 11494 (Sub-4–17TA), filed March 19, 1981. Applicant: KREIDER TRUCK SERVICE, INC., 1600 Collinsville Ave., Madison, IL 62060. Representative: William J. O'Donell (same as applicant). *Flour, in bulk,* from Topeka, KS to Zanesville, OH. Supporting shipper: Seaboard Milling Corp., 9000 W. 67th St., Shwanee Mission, KS 66201.

MC 114632 (Sub-4–28TA), filed March 20, 1981. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same as applicant). *Lumber or Wood Products (STCC 24),* between Beltrami County, MN on the one hand, and points in IL, IN, IA, KS, KY, MI, MN, NE, ND and SD on the other. Supporting shipper: The Mead Corporation, Courthouse Plaza, NE, Dayton, OH 45463.

MC 118202 (Sub-4–19TA), filed March 19, 1981. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Edina, MN 55424. *Meat, meat products, meat by-products and related products distributed by meat packinghouses* from Holcomb, KS, to points in AL, AZ, AR, CA, CO, FL, GA, ID, LA, MS, MT, NV, NM, NC, OK, OR, SC, TN, TX, UT, WA and WY. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 133689 (Sub-4–75TA), filed March 19, 1981. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Such articles as are dealt in by building and home improvements contractors and materials, supplies and equipment used in the manufacture and distribution of such articles,* between the facilities of Therma-Tru Division of L.S.T. Inc. at Van Buren, AR; Colorado Springs, CO and Toledo, OH, on the one hand, and, on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Therma-Tru Division of L.S.T. Inc., 2806 N. Reynolds Rd., Toledo, OH 43615.

MC 134305 (Sub-4–2TA), filed March 19, 1981. Applicant: HAMM TRUCKING, INC., R.R. No. 1, Erie, IL 61250. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. *Plastic pellets or plastic powder (except in bulk) and materials and supplies used or useful in the manufacture or distribution of plastic pellets and plastic powder,* between Clinton, IA, on the one hand, and, on the other, points in MA, NH, TX, OK, AR, KS, MO, AL, GA, NC, SC, MS, and LA. Supporting shipper: Chemplex Company, 3100 Golf Road, Rolling Meadows, IL 60008.

MC 134940 (Sub-4–1TA), filed March 19, 1981. Applicant: VERNON KUFAHL d.b.a. KUFAHL TRUCKING, 4704 N. 32nd Avenue, Wausau, WI 54401. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Contract; such commodities as are dealt in or used by manufacturers, converters, printers and distributors of paper and paper products (except commodities in bulk)* between the facilities of Rhinelander Paper Company, Inc., at or near Rhinelander, WI, on the one hand, and, on the other, points in IA, IL, IN, KS, KY, MI, MN, MO, OH and TN. Restricted to a service to be performed under a continuing contract(s) with Rhinelander Paper Company, Inc., Rhinelander, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Rhinelander Paper Company, Inc., 515 West Davenport, Rhinelander, WI 54501.

MC 139928 (Sub-4–1TA), filed March 19, 1981. Applicant: AMERICAN COACH LINES, INC., 2611 West Grand Ave., Wisconsin Rapids, WI 54494. Representative: Stanley C. Olsen, Jr., 5200 Wilson Rd., Suite 307, Edina, MN 55424. *Common: Regular Passengers and their baggage, and express and newspapers in the same vehicle with passengers;* between Fond duLac, WI, and Milwaukee, WI, serving all intermediate points: from Fond duLac, WI, over U.S. Highway 41 to Milwaukee, WI, from Fond duLac, WI, over U.S. Highway 45 to Junction U.S. Highway 41 thence over U.S. Highway 41 to Milwaukee, WI. Applicant intends to tack to authority. Supporting shippers: There are 12 supporting shippers.

MC 144576 (Sub-4–1TA), filed March 19, 1981. Applicant: HILLSDALE COUNTY RAILWAY CO., INC., 50 Monroe Street, Hillsdale, MI 49242. Representative: John D. Heffner, Esq., Suite 307, 2011 I Street NW., Washington, DC 20006. *General commodities (except classes A & B explosives and commodities in vehicles equipped with mechanical refrigeration)* between points in Steuben County, IN, and Hillsdale and Branch Counties, MI. Supporting shipper(s): Angola Lumber Co., Angola, IN; Moore Business Forms, Angola, IN; Steuben County Farm Bureau, Angola, IN.

Note.—Applicant intends to tack this authority with its existing authority at Hillsdale, MI, and to interline with rail carriers at Detroit, MI, and Toledo, OH.

MC 144630 (Sub-4–17TA), filed March 19, 1981. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Meat and packinghouse products,* from points in IL and OH to Los Angeles, CA; Dallas, TX; and Memphis, TN. Supporting shipper: The Kroger Company, 1014 Vine Street, Cincinnati, OH.

MC 144889 (Sub-4–2TA), filed March 20, 1981. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Avenue, Hammond, IN 46320. Representative: Walter C. Rymarowicz (same address as Applicant). *Metal products* between points in Cook County, IL on the one hand, and on the other, points in Porter County, IN. Supporting shipper: J. & S. Tin Mill Products Company, Inc., 3400 North Powell Avenue, Franklin Park, IL 60131.

MC 145574 (Sub-4–3TA), filed March 19, 1981. Applicant: RUSS'S MOTOR SERVICE, INC., 5070 Lake Street, Melrose Park, IL 60160. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. *General commodities having a prior or subsequent movement by rail or water* (except Classes A and B explosives and commodities in bulk), between Cook and Lake Counties, IL, on the one hand, and, on the other, points in OH and PA. Supporting shippers: Catalina Furniture Co., Inc., 4903 Long Beach Ave. W., Los Angeles, CA; West America Corp., 2883 E. Victoria, Compton, CA; Mozar Industries, Inc., 15002 S. Avalon Blvd., Gardena, CA; Pacific Frames, Inc., 12839 Chadron, Hawthorne, CA; and North Star Furnishings Mfg., 3816 Medford St., Los Angeles, CA.

MC 145636 (Sub-4–6TA), filed March 19, 1981. Applicant: BOB BRINK, INC., 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, 128½ Plaza East, P.O. Box 676, Winona, MN 55987. (1) *Furniture* and *furniture*

parts and (2) *such articles as are used in the sale, manufacture and distribution* of those commodities named in (1) above. Between Arcadia, WI on the one hand and all points in the U.S. on the other. Supporting shipper: Ashley-Arcadia Furniture Company, Arcadia, WI 54612.

MC 145974 (Sub-4–4TA), filed March 19, 1981. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract: Lumber, lumber products and wood products,* from Minneapolis, MN and points in CA, ID, MT, OR and WA, to points in IA and WI under contract(s) with Canton Redwood Sales Co., Canton Lumber Sales Co., and Canton Redwood Yard, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Canton Redwood Sales Co., Canton Lumber Sales, Co. and Canton Redwood Yard, Inc., P.O. Box 9328, Minneapolis, MN 55440.

MC 146758 (Sub-4–4TA), filed March 18, 1981. Applicant: LADLIE TRANSPORTATION, INC., 103 East Main Street, Albert Lea, MN 56007. Representative: Phillip H. Ladlie (same as Applicant). *Lumber and wood products* between points in Marion and Baxter Counties, AR on the one hand, and, on the other, all points in the U.S. (except AK and HI). Supporting shipper: Cotter Mfg. Co., P.O. Box 100, Cotter, AR 72626.

MC 149457 (Sub-4–9TA), filed March 20, 1981. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Avenue, Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Such merchandise as is dealt in by retail department stores and materials, equipment and supples used or useful in the manufacture, sale or distribution of the involved commodities,* between Seattle, WA and points in the Seattle, WA commercial zone, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA. Underlying ETA seeks 120 days authority. Supporting shippers: Lamont's, 1511 Sixth Avenue, Seattle, WA 98101; Frederick & Nelson, 5th & Pine, Seattle, WA 98111; and The Bon, 17000 South Center Parkway, Seattle, WA 98188.

MC 149497 (Sub-4–19TA), filed March 19, 1981. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Elaine M. Conway, 10 South LaSalle Street, Suite 1600, Chicago, IL 60693. *Contract:* Machinery between Springfield, IL and points in the U.S., under continuing contract with Fiat-Allis Construction Machinery, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Fiat-Allis Construction Machinery, Inc., 3000 South Sixth Street, Springfield, IL 62710.

MC 153148 (Sub-4–2TA), filed March 19, 1981. Applicant: MERLE HOUGH, P.O. Box 2, Detroit Lakes, MN 56501. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Machined metal parts and packaging supplies (except in bulk, in tank vehicles),* (a) from Seattle, WA, Minneapolis, MN, and Chicago, IL to Detroit Lakes, MN, (b) from Detroit Lakes, MN to points in ND, SD, WI, IL, IA, MT and WY, and (c) from Minneapolis, MN to points in WI, IA and IL. Restricted to traffic originating at or destined to the facilites of RBJ Sales, Inc., or its customers or suppliers. An underlying ETA seeks 120 days authority. Supporting shipper: RBJ Sales, Inc., P.O. Box 1360, Detroit Lakes, MN 56501.

MC 153829 (Sub-4–11TA), filed March 20, 1981. Applicant: UNITED SHIPPIING COMPANY, 2104 Lower St. Dennis Road, St. Paul, MN 55116. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Paperboard cartons,* from Minneapolis, MN and points in its commercial zone to Laredo, TX and points in its commercial zone. Supporting shipper: Kustom Die, Inc., 3435 North Kilmer Lane, Minneapolis, MN 55441.

MC 154205 (Sub-4–1TA), filed March 18, 1981. Applicant: MICHELSON FARMS, INC., Route 2, Elbow Lake, MN 56531. Representative: Dennis J. Helseth, Box 4092, Elbow Lake, MN 56531. *Contract: Iron, steel and concrete stairways and parts therefore,* between Chicago, IL, Commercial Zone and Minneapolis, MN. Supporting Shipper: American Stair Corporation, Inc., One American Stair Plaza, Willow Springs, IL 60480.

MC 154483 (Sub-4–1TA), filed March 19, 1981. Applicant: JUSTIN D. ATEN, 8128 Mackinaw Trail, Cadillac, MI 49601. Representative: William B. Elmer, 624 Third Street, Traverse City, MI 49684. *Lumber and wood products,* between points in Wexford County, MI on the one hand, and, on the other, points in IL, IN, MI and OH. Supporting shipper: Michigan Northern Railway Co., Inc., 110 W. North St., Cadillac, MI 49601.

MC 154570 (Sub-4–1TA), filed March 19, 1981. Applicant: G & G EXPRESS, 4585 S. Harding St., Indianapolis, IN 46217. Representative: Gerry Hall (same adddress as above). *Cleaning and polishing compounds* between Brazil and Terre Haute, IN, on the one hand, and, on the other, points in CO, GA, IL, MA, MI, MO, OK, PA, TN, TX, VA, WI and WV. Supporting shipper: Continental Chemical Corp., P.O. Box 994, Terre Haute, IN.

MC 154766 (Sub-4–1), filed March 18, 1981. Applicant: JOHN A. VERIHA d.b.a. PAPER RECLAIM, Rt 1 Box 271A, Porterfield, WI 54159. Representative: John A. Veriha, P.O. Box 237, Menominee, MI 49858. *Contract: Finish products manufactured by Tufco Industries, Inc. & Paper,* between the facilities of Tufco Industries, Inc. on the one hand, and, on the other, points in the U.S. (except Ak and HI). Restricted to the transportation of Tufco Industries, Inc. with a continuing contract. Supporting shipper: Tufco Industries, Inc., P.O. Box 1291, Green Bay, WI 54305.

MC 154772 (Sub-4–1TA), filed March 18, 1981. Applicant: CUTLER–MAGNER COMPANY, 12th Avenue and The Waterfront, P.O. Box 60807, Duluth, MN 55802. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Sand and concrete mix,* from Eau Claire, WI to Proctor, MN. Supporting shipper: ASDCO, Inc., P.O. Box 6186, Duluth, MN 55806.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5–100TA), filed March 20, 1981. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Pulp, paper and related products, and materials, supplies, and equipment used in the manufacture and distribution of such products,* between points in Coconino County, AZ; Los Angeles and Orange Counties, CA; Mayes County, OK; and Columbia County, OR, on the one hand, and, on the other, points in the U.S. Supporting shipper: Orchid Paper Products, 5911 Fresca Drive, La Palma, CA 90622.

MC 15511 (Sub-5–1TA), filed March 19, 1981. Applicant: CARSTENSEN FREIGHT LINES, INC., P.O. Box 878, Highway 30, West, Clinton, IA 52732. Representative: Paul J. Maton, 10 S. La Salle St., Chicago, IL 60603. *General commodities (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, articles of unusual value, and commodities requiring special equipment),* between points in IA on and

East of U.S Hwy 169, and points in IL with service to the off-route points of Vincennes, IN, Canton, MO, Hannibal, MO, St. Louis, MO and Beloit, WI. Supporting shippers: 22.

MC 21455 (Sub-5-1TA), filed March 19, 1981. Applicant: GENE MITCHELL CO., West Liberty, IA 52776. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Food and related products and restaurant supplies and equipment,* (1) Between pts in IA, on the one hand, and, on the other, pts in AR, CA, ID, IL, IN, KY, MI, MN, MO, NY, OH, OR, PA, WA, and WI; and (2) Between pts in CA, on the one hand, and, on the other, pts in IL, IA, KS, MN, MO, NE and SD. Supporting shippers: Old Capitol Distributing Co., Inc., 125 Potomac Drive, Iowa City, IA; Hawkeye Wholesale Groc. Co., Inc., P.O. Box 1820, Hwy 6 West, Iowa City, IA.

MC 35320 (Sub-5-49TA), filed February 13, 1981. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, TX 79408. Representative: Kenneth G. Thomas (address same as applicant). Common, regular. *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives,* serving Charlotte, NC, and its commercial zone as an off-route point in connection with carrier's otherwise authorized regular route operations. Supporting shippers: Seven.

Note.—Applicant intends to tack and interline.

MC 35320 (Sub-5-54TA), filed March 19, 1981. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, TX 79408. Representative: Kenneth G. Thomas, (same as applicant). Common, regular. *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives,* serving Winchester, VA and its commercial zone as an off-route point in connection with carrier's otherwise authorized regular-route operations. Supporting shipper: Abex Corporation, 530 Fifth Ave., New York, New York.

Note.—Applicant intends to tack and interline.

MC 53965 (Sub-5-9TA), filed March 19, 1981. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, P.O. Drawer 1387, Salina, KS 67401. Representative: Larry E. Gregg, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *General Commodities (except Classes A and B explosives)* between Shawnee County, KS, on the one hand, and points in the U.S. on the other. Supporting shipper: Volume Shoe Corp., 3231 East 6th Street, Topeka, KS 66607.

MC 55981 (Sub-5-1TA), filed March 19, 1981. Applicant: RAYFORD SADBERRY TRUCKING, P.O. Box 305, Holliday, TX 76366. Representative: Rayford Sadberry (same as applicant). Contract: Irregular. *Oilfield commodities and equipment,* between points in TX and NM, under continuing contract(s) with G & B Pipe and Equipment Co., Inc. Supporting shipper: G & B Pipe & Equipment Co., Inc., P.O. Box 2005, Wichita Falls, TX 76307.

Note.—Applicant intends to tack.

MC 61396 (Sub-5-12TA), filed March 20, 1981. Applicant: HERMAN BROS., INC., P.O. Box 391, Omaha, NE 68102. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Cement, in bulk,* from West Lake, LA to points in TX. Supporting shipper(s): Ideal Basic Industries, Cement Division (Louisiana), P.O. Box 7487, Metairie, LA.

MC 80730 (Sub-5-2TA), filed March 20, 1981. Applicant: MAGNOLIA TRANSPORTATION CO., INC., 5121 Oates Road (P.O. Box 24458), Houston, TX 77013. Representative: Lester R. Gutman, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Contract;* irregular; *Mercer commodities* between points in TX and LA, on the one hand, and, on the other, points in CA, under continuing contract(s) with Subsea International, Inc. of New Orleans, LA, and Pool Offshore Company, of Harvey, LA. Supporting shippers: Subsea International, Inc., 500 Dakin Street, Jefferson, IN 80121 and Pool Offshore Company, P.O. Box 621, Harvey, LA 70059.

MC 119399 (Sub-5-54TA), filed March 19, 1981. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (address same as applicant). *Petroleum Products and Materials and Supplies used in the manufacture of Petroleum Products (except commodities in bulk)* between Spencer, IA; Omaha, NE; Olathe and Wichita, KS; on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Southwest Petro-Chem, Inc., Olathe, KS 66061.

MC 123987 (Sub-5-5TA), filed March 20, 1981. Applicant: JEWETT SCOTT TRUCK LINE, INC., P.O. Box 267, Mangum, OK 73554. Representative: Jewett Scott Jr., P.O. Box 267, Mangum, OK 73554. *Chemicals and allied products,* between points in CO, KS, NM, OK, TX and WY. Supporting shipper: Foremost-McKesson Chemical Group, 3525 North Causeway Boulevard, Metairie, LA 70002.

MC 124174 (Sub-5-43TA), filed March 20, 1981. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen, 13811 "L" Street, Omaha, NE 68137. *(1) Building construction, manufacturing, divider, floor, roof, wall panels and sections, and equipment materials and supplies (except liquid commodities in tank vehicles) used in the manufacture thereof (2) packaging materials and packaging machinery,* (1) between Merrimack County, NH and points in the U.S.A. and (2) from Essex County, MA to points in VT, ME, NH, CT, NY, NJ, PA, MD, IL, WI, OH, IN, FL, GA, and MN. Shipper(s): Kalwall Corp., 1111 Candia Road, Manchester, NH 03105; L. F. & P., Inc., 14 Walnut Street, Peabody, MA 01960.

MC 125350 (Sub-5-1TA), filed March 19, 1981. Applicant: D. R. BURGHER, INC., Box 65, Audubon, IA 50025. Representative: Thomas E. Leahy, 1980 Financial Center, Des Moines, IA 50309. *Machines* from Adel, IA to pts in the U.S. Supporting shipper: Straight Engineering Co., Box 176, Adel, IA.

MC 126118 (Sub-5-58TA), filed March 20, 1981. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Beverages,* between pts in GA, on the one hand, and, on the other, pts in TN. Supporting shipper: George Dinwiddie Distributing Co., Inc., Gerald E. Brock, Office Manager, 5901 Casey Drive, Knoxville, TN 37919.

MC 128007 (Sub-5-7TA), filed March 19, 1981. Applicant: HOFER, INC., 20th and 69 ByPass, P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Lumber and wood products,* from points in CA, ID, MT, OR, WA and WY to points in AR, KS, MO, OK, NE and TX. Supporting shipper: Slaughter Brothers, Inc., P.O. Box 38670, Dallas, TX 76238.

MC 133562 (Sub-5-2TA), filed February 2, 1981. Applicant: HOLIDAY EXPRESS CORPORATION, Highway 4, P.O. Box 115, Estherville, IA 51334. Representative: Merle Johnson (same address as applicant). *Absorbent ground clay* from points in GA to points in IA, MN, NE, ND and SD. *Non-exempt food and kindred products* between Cedar Rapids, IA to points in the U.S. (except AK and HI). *Petroleum products,* except in bulk, from Bradford and Oil City, PA; Congo, WV; Ashland, KY; Port Arthur, TX; Chicago, IL and its commercial zone; Ponca City, OK to points in IA, IL, MN, NE, ND and SD. *Automobile parts, materials and supplies,* from Chicago, IL; Indianapolis, IN; Kansas City, MO; St. Louis, MO and Detroit, MI and their respective commercial zones to points in IA, MN, NE, ND and SD. *Tomato paste*

and canned goods from points in CA to points in IA, MN and NE. Supporting shippers: 3.

MC 133562 (Sub-5-6TA), filed March 19, 1981. Applicant: HOLIDAY EXPRESS CORPORATION, Highway No. 4, P.O. Box 115, Estherville, IA. Representative: Merle L. Johnson (same address as applicant). *Cotton yarn, Synthetic yarns, and Cotton Materials,* from Hickory and Laurinburg, NC; Lincolnton, GA; Brenham and Laredo, TX to Des Moines, IA. *Clothing,* from New York, NY and its commerical zone to pts in MN, WI, IA, IN, OH, ND and SD. *Snowmobiles and motorcycles, and parts, materials and supplies,* from Jacksonville, FL; Seattle, WA; Los Angeles, CA; Rock Island and Chicago, IL; Minneapolis, MN to pts in IA, MN and SD. Supporting shippers: Dickson Industries, Inc., 325 SW 5th St., Des Moines, IA, Belscot Retailers, Inc., 80 Enterprise Avenue, Secaucus, NJ 07094, and Al's Auto Service, Inc., 827 W. Central Avenue, Estherville, IA 51334.

MC 135797 (Sub-5-107TA), filed March 20, 1981. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Such commodities as are dealt in or used by manufacturers of toy and play apparatus,* between Logan County, AR on the one hand, and on the other, points in the United States (except AK and HI). Supporting shipper: Wolverine Toy Co., Highway 10 East, Booneville, AR 72927.

MC 136816 (Sub-5-1TA), filed March 20, 1981. Applicant: THE UNIVERSE COMPANY, 3523 "L" Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. *Meat and packinghouse products,* from Omaha, NE to Kansas City, MO-KS. Supporting shipper: Midwest Boneless Meat of Kansas, Inc., 5252 Speaker Road, Kansas City, KS 66106.

MC 142399 (Sub-5-1TA), filed March 19, 1981. Applicant: ELLERBROCK TRUCKING, INC., Highway 20 East, Sac City, IA 50583. Representative: Ronald R. Adams or Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Popcorn packed in oil,* between pts in Sac and Linn Counties, IA, on the one hand, and, on the other, pts in the U.S. Supporting shipper: National Oats Company, 1515 "H" Avenue N.E., Cedar Rapids, IA 52402.

MC 143257 (Sub-5-1TA), filed March 19, 1981. Applicant: CHAMBERS, LTD., 405 South DeKalb Street, P.O. Box 304 Corydon, IA 50060. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. (1) *Horticultural equipment, implements, and tools,* (2) *plastic articles,* (3) *insecticides, plant foods, and fertilzer, and (4) equipment, materials, and supplies* used in the manufacture or distribution of the products in (1), (2), and (3) above, between Polk County, IA, on the one hand, and, on the other, all pts in the U.S. in and west of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of Ross Daniels, Inc. Supporting shipper: Ross Daniels, Inc., 1720 Fuller Road, West Des Moines, IA 50265.

MC 145475 (Sub-5-2TA), filed March 20, 1981. Applicant: FRONTIER LEASING, INC., Route 7, Box 173, Joplin, MO 64801. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804. *Contract* irregular *Bar stock, steel bars, springs and tooling, spring steel, wire elliptic, and motor vehicle machinery,* between points in the 48 contiguous states. Supporting shipper: Norris Industries, Incorporated, 1901 Commerce Drive, Fayetteville, AR.

MC 149169 (Sub-5-3TA), filed March 20, 1981. Applicant: INTERCOASTAL CONTAINER SERVICE CORP., 2003 MacArthur Drive, Orange, TX 77630. Representative: Harry S. Jenkins (same as applicant). *General Commodities, except household goods as defined by the Commission and Class A and B explosives, having a prior or subsequent movement by water or rail,* between Harris, Galveston, Jefferson, and Orange Counties, TX, on the one hand, and, on the other, all points in the states of OK, LA, AR, MS, and other points in TX. Supporting shipper: Orange County Navigation and Port District, 1201 Childers Road, Orange, TX 77630.

MC 149568 (Sub-5-2TA), filed March 20, 1981. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, Esq., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract;* Irregular. *Food Seasonings and Sauces, Chemicals, Compounds, Plastics, Resins, and Synthetic Fibers (except in bulk),* between points in GA, LA, MI, MS, MO, NJ, PA, and VA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Supporting shipper: Hercules Incorporated of San Francisco, CA.

MC 150578 (Sub-5-29TA), filed March 19, 1981. Applicant: STEVENS TRANSPORT, a Division of Stevens Foods, Inc., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: Michael Richey (same as applicant). *Foodstuffs (except in bulk)* from Clifton, NJ to points in KS, OK, AR, TX and LA. Restricted to traffic originating at Globe Products Co., Inc. Supporting shipper: Globe Products Company, Inc., 55 Webro Road, Clifton, NJ 07015.

MC 151134 (Sub-5-2TA), filed March 19, 1981. Applicant: KARTRAN INCORPORATED, 3310 Bobie Lane, Garland, TX 75042. Representative: Kipling W. Castleberry (same as applicant). *New, used, and antique furniture, waste cloth products, and raw materials consisting of brass rod and copper tubing,* between the port of Houston, TX and Dallas, Forth Worth, and Greenville, TX, and their commercial zones, having a prior or subsequent movement by water. Supporting shippers: Sol Levine Export Co., 301 Drowdus St., Dallas, TX 75226; Joe Small Auctioneers, Inc., 3114 Garden Brook Dr., Dallas, TX 75234; Red's Antiques, Inc., IS20, Forney, TX 75126; U.S. Brass Corporation, 901 10th St., Plano, TX 75074.

Note.—Applicant intends to tack.

MC 151644 (Sub-5-3TA), filed February 27, 1981. Applicant: WILDCAT TRUCKING COMPANY, 6810 Dollarway Road, Pine Bluff, AR 71602. Representative: M. Douglas Wood, 2500 McCain Blvd., Suite 103, North Little Rock, AR 72116. *Electric transformers,* between Jefferson County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Central Maloney Transformer Div., 2400 W. 6th St., Pine Bluff, AR 71601.

MC 153163 (Sub-5-2TA), filed March 20, 1981.Applicant: HOWARD D. and BEVERLY J. SCROGGINS, d.b.a. CROSSROADS CHARTER COACHES, Rt. 4, Box 158-A, Joplin, MO 64801 Representative: (same as applicant). *Passengers and their baggage* in special and charter operations in round-trip pleasure tours, beginning and ending at points in Newton County, MO. Supporting shippers: 5.

MC 153776 (Sub-5-1TA), filed February 12, 1981. Applicant: SOUTHLAND HOT SHOT SERVICE, INC., P.O. Box 2618, Houma, LA 70361. Representative: Janet Boles Chambers, 8211 Goodwood Boulevard, Suite C-2, Baton Rouge, LA 70806. *Machinery, equipment, materials, and supplies, used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and machinery, equipment, materials and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and*

picking up thereof, between points in TX, OK, AR, MS, AL, FL, NM, CO, WY, and LA. Supporting shippers: There are fifteen supporting shippers.

MC 154115 (Sub-5–1TA), filed March 20, 1981. Applicant: SERVICE TRUCKING, INC., 502 Parke, Pratt, KS 67124. Representative: Kenneth E. Roberts (same as above). Contract; Irregular. *General Commodities, except Classes A and B explosives and hazardous waste*, between points in the U.S. Supporting shippers: Mud-Co, Inc., 110 N. Market, Suite 213, Wichita, KS 67202; Chem Serv, Inc., 110 N. Market, Suite 218, Wichita, KS 67202.

MC 154461 (Sub-5–1TA), filed March 19, 1981. Applicant: VILLAGE CHARTERS, INC., Suite 404, Colorado Derby Bldg., 202 W. First, Wichita, KS 67202. Representative: Mark S. Marney, (same as applicant). *Passengers, and their baggage*, in special and charter operations, between points in Sedgwick County, KS, on the one hand, and on the other, points in the U.S. (including AK but excluding HI). Supporting shippers: 7.

MC 154520 (Sub-5–1TA), filed March 20, 1981. Applicant: C&D DELIVERY SERVICE, INC., 5415 Maple Ave., Suite 418, Dallas, TX 75235. Representative: Curtis I. Hayes, Sr., 5415 Maple Ave., Suite 418, Dallas, TX 75235. *General commodities*, between the TOFC Ramp facilities at Dallas and Fort Worth, TX, on the one hand, and, on the other, points in TX, with a prior or subsequent movement by rail. Supporting shippers: Bay Area Piggyback, 1355 5th St., Oakland, CA 94607; National Piggyback Services, 11325 Pegasus, Suite S-118, Dallas, TX 75238; Sunbelt Consolidators, P.O. Box 201044, Dallas, TX 75220.

MC 154600 (Sub-5–1TA), filed March 19, 1981. Applicant: TOMMY L. FINDLEY, P.O. Box 51, Morrilton, AR 72110. Representative: James M. Duckett, 411 Pyramid Life Building, Little Rock, AR 72201. *Planed Kiln Dried Hardwood, Exotic Woods and Plywood*, between Lake Village, Hamburg and Little Rock, AR on the one hand, and, on the other, points in OR, WY, WA, ID and MT. Supporting shipper: Lake Side Supply, Lake Village, AR.

MC 154765 (Sub-5–1TA), filed March 20, 1981. Applicant: NORTHSTAR TRANSPORTATION, INC., 10951 Lakeview Ave., Lenexa, KS 66219. Representative: Stanley O. Wilson (same address as applicant). Contract; Irregular. *Potting soil in packages on pallets and related supplies* between points in the U.S. except AK and HI. Supporting shipper: Stim-U-Plant Laboratories, Inc., 2077 Parkwood Ave., Columbus, OH 43219.

MC 154804 (Sub-5–1TA), filed March 19, 1981. Applicant: MARVIN H. GRIPPIN, d.b.a. LEASECO, P.O. Box 36, Farwell, TX 79325. Representative: Marvin H. Grippin (same address as applicant). (1) *Hides*, from Guymon, OK, and various points in TX to various points in CA. Supporting shipper(s): Southwestern Trading Co., P.O. Box 33279, Houston, TX 77033.

MC 154806 (Sub-5–1TA), filed March 19, 1981. Applicant: C. M. PENN & SONS, INC., Route 1, Box 349A, Greenwell Springs, LA 70739. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. Contract; irregular; *waste material, hazardous and/or non-hazardous* between AL and LA. Supporting shipper(s): Shell Oil Company, P.O. Box 2099, Houston, TX 77001; PPG Industries, Inc., P.O. Box 1000, Lake Charles, LA 70602.

MC 2960 (Sub-5–7TA), filed March 17, 1981. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinley St., Houston, TX 77023. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245. Common; regular; *general commodities (except Classes A & B Explosives)*, between Dallas, TX and Houston, TX over Interstate Hwy. 45, serving all intermediate points. Supporting shipper(s):Woodline Motor Freight, Inc., Airport Rd., Russellville, AR 72801.

Note.—Applicant intends to interline.

MC 106398 (Sub-5–64TA), filed March 18, 1981. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Metal produces and accessories* between Harris County, TX, on the one hand, and, on the other, all points in the United States (except AK and HI) Supporting shipper: United Structures of America, Inc., 1912 Buschong, Houston, TX 77039.

MC 107496 (Sub-5–57TA), filed March 17, 1981. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, Attorney, P.O. Box 855, Des Moines, IA 50304. *Barium carbonate (dry)*, from Coffeyville, KS, to Circleville, OH. Supporting shipper: Sherwin Williams Co., P.O. Box 855, Coffeyville, KS 67337.

MC 129032 (Sub-5–8TA), filed March 17, 1981. Applicant: TOM INMAN TRUCKING, INC., 5656 S. 129th East Avenue, Tulsa, OK 74145. Representative: Michael H. Lennox, 8903 North Western Ave., Oklahoma City, OK 73114. *Building Materials;* from Tulsa County, OK to ID, MT, OR, WA, and WY. Supporting shipper: Dryvit Systems, Inc., 5850 S. 116th St. West Ave., Tulsa, OK 74107.

MC 138104 (Sub-5–8TA), filed March 17, 1981. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Hides*, between points in the U.S., except AK and HI, on the one hand, and, on the other, points on the International Boundary Line between the U.S. and Mexico, in TX. Supporting shipper: Harland M. Braun Company, 4010 Whiteside Street, Los Angeles, CA 90063.

MC 144117 (Sub-5–7TA), filed March 17, 1981. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Bernard J. Kompare, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Such commodities as are dealt in or used by manufacturers of Foodstuffs and pharmaceuticals*, Between points in Vandenburgh and Posey Counties, IN, and Green County, MO, on the one hand, and on the other, points in Middlesex County, NJ; Denver, County, CO; Norfolk County, MA; Duval and Dade Counties, FL; Mecklenburg County, NC; Dallas and Harris Counties, TX; Cook County, IL; Jackson County, MO; Hinds County, MS; Wayne County, MI; Hennepin County, MN; Fulton County, GA; Clackamas County, OR; Alameda and Los Angeles Counties, CA; Beaver County, PA; and King County, WA. Supporting shipper: Mead Johnson & Company, 2404 Pennsylvania Ave., Evansville, IN 47721.

MC 144117 (Sub-5–8TA), filed March 18, 1981. Applicant: TLC LINES, INC., 1666 Fabick Drive, Fenton, MO 63026. Representative: William D. Brejcha, Esq., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. *Such commodities as are manufactured, distributed or used by manufacturers and distributors of welding equipment*, between points in Miami County, OH, on the one hand, and, on the other, points in the U.S. Supporting shipper: Hobart Brothers Co., 600 W. Main St., Troy, OH 45373.

MC 144622 (Sub-5–76TA), filed March 18, 1981. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Foodstuffs (except in bulk)* from the facilities of American Home Foods located at or near La Porte, IN to points in MO, OK, and TX. Supporting shipper: American Home Foods Division of American Home Products Corporation, 685 Third Avenue, New York, NY 10017.

MC 145240 (Sub-5-3TA), filed March 17, 1981. Applicant: L. D. BRINKMAN TRUCKING CORPORATION, 520 N. Wildwood, Irving, TX 75060. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. Contract: irregular; *foodstuffs and related products;* from the facilities of New Orleans Cold Storage and Warehouse Company, Ltd., located at or near New Orleans, LA, to points in Dallas, Ft. Worth and Paris, TX. Supporting shipper(s): New Orleans Cold Storage & Wholesale Co., Ltd., P.O. Box 895, Metairie, LA 70004.

MC 147536 (Sub-5-10TA), filed March 17, 1981. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton, P.O. Box 1567, Joplin, MO 64801 (same as applicant). *Paper and Plastic Products, Materials, Equipment, and Supplies used in the manufacture and distribution of paper and plastic products,* between points in the U.S. (restricted to the transportation of traffic originating at or destined to the facilities used by Lily Division of Ownes-Illinois.) Supporting shipper: Lily Division of Ownes-Illinois, P.O. Box 1035, Toledo, OH 43666.

MC 147536 (Sub-5-11TA), filed March 17, 1981. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton, P.O. Box 1567, Joplin, MO 64801 (same as applicant). *(1) Charcoal, Charcoal Products; and, (2) Materials, Equipment, and Supplies used in the manufacture and distribution of commodities in (1) above* between points in Baxter County, AR, on the one hand, and, on the other, points in AL, AZ, CA, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, ND, OH, OK, SD, TN, TX, and WI. Supporting shipper: Cotter Charcoal Co., P.O. Box 100, Cotter, AR 77626.

MC 151641 (Sub-5-2TA), filed March 17, 1981. Applicant: WILLIAM E. JOHNSON, d.b.a. WILLIAM E. JOHNSON TRUCKING CO., 11211 Sherman Avenue, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Food and related products;* from 1) Liberal, KS to Houston, Temple, Sherman, Waco, Ft. Worth, and Lufkin, TX; Tulsa, Oklahoma City, Enid, and Lawton, OK and 2) from Oklahoma City, OK to Richardson, TX. Supporting shippers(s): National Beef Packing Co., Inc., P.O. Box 978, Liberal, KS 67901; Skaggs Companies, Inc., 1100 Executive, Richardson, TX 75080.

MC 153133 (Sub-5-7TA), filed March 17, 1981. Applicant: TRANS AMERICAN TRANSPORTATION SYSTEM, INC., 811 Jackson Street, Suite 108, Richmond, TX 77469. Representative: Patrica L. Altman, 2523 Avenue H, Rosenberg, TX 77471. *Iron* and *Steel Articles, Pipe,* and *related commodities.* (1) between points in KS, and OK, and, (2) between points in TX, on the one hand, and, points in OK, KS, and CO, on the other hand. Supporting shippers: There are seven supporting shippers.

MC 153328 (Sub-5-3TA), filed March 17, 1981. Applicant: RED K. TRANSPORT, INC., 2545 Peach Tree Street, Cape Girardeau, MO 63701. Representative: G. H. Boles, 321 North Spring Avenue, Cape Girardeau, MO 63701. *Electric motors, electrical apparatus and appliances (except commodities requiring the use of special equipment), and materials, equipment and supplies used in the manufacture and distribution thereof;* (1) between points in AR, IL, IN, IA, KS, KY, MI, MS, MO, OH, SC and TN and (2) points in (1) on the one hand, and, on the other, points in the U.S. (except AK and HI. Supporting shippers: Emerson Electric Corporation, P.O. Box 3946, St. Louis, MO 63136.

MC 154039 (Sub-5-1TA), filed March 17, 1981. Applicant: R. A. BURNS, d.b.a. RED BIRD HOT SHOT SERVICE, Route 9, Gotfried Street, Victoria, TX 77901. Representative: Robert J. Birnbaum, 3636 Executive Center Drive, Suite 151, Austin, TX 78731. *Machinery, equipment, materials, and supplies used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with, the construction, repair, servicing, maintenance, and dismantling of pipelines* between Victoria and Calhoun Counties, TX, on the one hand, and, on the other, points in the U.S. Supporting shippers: There are five supporting shippers.

MC 154442 (Sub-5-1TA), filed March 17, 1981. Applicant: K AND W CO., 3414 Willow Park, Stillwater, OK 74074. Representative: Michael H. Lennox, 8903 North Western Avenue, Oklahoma City, OK 73114. Contract: Irregular, *Farm Implements and Farm Machinery,* between OK on the one hand, and on the other, IA and IL. Supporting shippers: Longs, Inc., Box 549, Garber, OK 73738.

MC 154488 (Sub-5-1TA), filed March 18, 1981. Applicant: JOE T. LASLEY, d.b.a. LASLEY TRUCKING COMPANY, Highway 64 East, P.O. Box 1368, Conway, AR 72032. Representative: John B. Fowlkes, Jr., Route One, Mt. Vernon, AR 72111, (501) 849-2589. Contract: Irregular. *(1) Particleboard, (2) steel having prior water or rail movement, and (3) brass, aluminum, iron and steel articles,* (1) from Simsboro, LA on the one hand to the facilities of Virco Mfg. Corporation, Conway, AR on the other hand, (2) (a) from Memphis, TN on the one hand, to points in AR on the other hand and (b) from Little Rock, AR on the one hand to points in AR on the other hand, and (3) between the facilities of Vincent Brass and Aluminum Company, Little Rock, AR on the one hand and points in AL, MS, MO, OK, and TN on the other hand, restricted in (2)(a) and (2)(b) above to shipments destined to either Virco Mfg. Corporation, Conway, AR or Vincent Brass and Aluminum Company, Little Rock, AR, under continuing contracts with Virco Mfg. Corporation and Vincent Brass and Aluminum Company. Supporting shippers: Virco Mfg. Corporation, Hwy 65 So., P.O. Box 5000, Conway, AR 72032 and Vincent Brass and Aluminum Company, 8909 Fourche Dam Pike, Little Rock, AR 72206.

MC 154745 (Sub-5-1TA), filed March 17, 1981. Applicant: HAROLD E. or RITA M. JOHNSON, d.b.a. TRANSPORT SERVICE, 5423 South 93rd St., Omaha, NE 68127. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. *Automobiles and trucks, in truckaway service,* between Randolph, Atkinson, Omaha and Bellevue, NE, and Council Bluffs, IA, on the one hand, and, on the other, points in KS, CO, SD, MN, IA, MO, OK, IL, NE and WY. Supporting shippers: National Auto Sales, Bluffs Toyota, Inc., Old Mill Toyota, Galyen Motor Company, Inc., Randolph Ford-Mercury.

MC 154750 (Sub-5-1TA), filed March 17, 1981. Applicant: D & H TRUCKING, INC., P.O. Box 82, Holbrook, NE 68948. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Lumber and wood products,* from the facilities of Feeler Lumber, at or near Rolla, MO, to points in the states of CO, IA, IL, KS, and OK. Supporting shipper: Feeler Lumber, Route 2, Rolla, MO 65401.

MC 154755 (Sub-5-1TA), filed March 17, 1981. Applicant: NORTHWEST IOWA TRANSPORTATION, INC., R.R. #1, Palmer, IA 50571. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Passengers and their baggage, in round trip special and charter operations,* beginning and ending at points in Carroll, Greene, Sac, Calhoun, Webster, Hamilton, Buena Vista, Pocahontas, Humboldt, Wright,

Clay, Palo Alto, Kossuth, Hancock, Dickinson, and Emmet Counties, IA, and extending to points in the U.S. Supporting shipper(s): 14.

MC 154777 (Sub-1TA), filed March 18, 1981. Applicant: BETTY J. SETTERBERG AND ROBERT W. SETTERBERG, d.b.a. W & B EXPRESS, Summer Street, R.R. Box 864, Burlington, IA 52601. Representative: Joel H. Steiner, 39 S. LaSalle, Suite 600, Chicago, IL 60603. Contract; Irregular; *general commodities (except classes A & B explosives)* between points in the U.S. under continuing contract(s) with Sheaffer-Eaton Textron. Supporting shipper: Sheaffer-Eaton Textron, 301 Avenue H, Fort Madison, IA.

The following protests were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board (RMBC), P.O. Box 7413, San Francisco, CA 94120.

MC 154782 (Sub-6-1TA), filed March 18, 1981. Applicant: AMERICAN WEST TOURS, INC., P.O. Box 693, Albuquerque, NM 87103. Representative: Rex D. Borough, 610 Espanola, NE., Albuquerque, NM 87107. *Passengers and their baggage* in the same vehicle with passengers, limited to the transportation of not more than eleven (11) passengers (excluding the driver) in one vehicle at one time, in special operations, sightseeing, and pleasure tours between points in NM, AZ, CO, NV, and UT for 180 days. Supporting shipper: Econotours, Inc., 510 Second Street, N.W., Albuqerque, NM 87101.

MC 154783 (Sub-6-1TA), filed March 18, 1981. Applicant: CARL MOCK, d.b.a. O.C. BRUMSHIRE CO., 1115 Roma, NE., Albuquerque, NM 87106. Representative: David C. Olson, P.O. Drawer 965, Albuquerque, NM 87103. *Contract carrier*, irregular routes: *cosmetics, toilet preparations, and toilet articles, as well as equipment and supplies used in connection with these commodities*, from points in Albuquerque, Bernalillo County, NM to points throughout NM, and to points in the Counties of Montezuma, LaPlata, and Archuleta, CO, including the cities of Durango, Cortez, and Pagosa Springs, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Avon Products, Inc., 83rd and College, Kansas City, MO 61414.

MC 143537 (Sub-6-1TA), filed March 16, 1981. Applicant: CHARLES W. HOLTCAMP d.b.a. C BAR S FARMS, 15731 North County Rd 17, Wellington, CO 80549. Representative: Lee E. Lucero, 450 Capitol Life Center, Denver, CO 80203. *Contract carrier*, irregular routes: *Building materials and those commodities which, because of size or weight, require the use of special handling or equipment*, from Springfield, MO, Chicago, IL, Elgin, IL, or Geneva, UT, to Cheyenne, WY, and from Cheyenne, WY, to points in CO and NE, for the account of Tri-State Steel Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Tri-State Steel Co., P.O. B. 305, Cheyenne, WY 82001.

MC 152238 (Sub-6-7TA), filed March 16, 1981. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., P.O. Box 288 Grenada, CA 96038. Representative: John R. Harleman (same as applicant). *Plastic pipe, plastic conduit, & fittings therefor; equipment, materials, supplies and accessories used in the installation thereof*, between Paramount & Woodland, CA, on the one hand and, on the other, points in AZ, CO, ID, NV, OR, UT, WA, & WY, restricted to shipments moving under continuing contract(s) with Carlon Division, Indian Head, Inc., Cleveland, OH, for 270 days. Supporting shipper: Carlon Division, Indian Head, Inc., 2320 Chagrin Blvd., Cleveland, OH 44122.

MC 152238 (Sub-6-8TA), filed March 16, 1981. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., P.O. Box 288 Grenada, CA 96038. Representative: John R. Harleman (same as applicant). *Stock steel reinforcing bar*, from Carson, CA to points in AZ & UT, restricted to shipments moving under continuing contract(s) with Soule Steel Corp., Mill Division, Carson, CA for 270 days. Supporting shipper: Soule Steel Corp., Mill Division, P.O. Box 6222, Carson, CA. 90749.

MC 140943 (Sub-6-3TA), filed March 17, 1981. Applicant: CHEYENNE ROAD TRANSPORT, LTD., 232 38th Ave. NE., Calgary, Alberta, CD T2E 2M2. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Animal and poultry feed additives, food additives* from: Springfield, MO, Gabbs, NV and Spokane, WA, to points along the international boundary line adjoining British Columbia, Alberta and Saskatchewan, for 270 days. Supporting shipper: Westhawk Traders, Ltd., 1250 Homer St., Vancouver, B.C. CD V6B 2Y5.

MC 146666 (Sub-6-1TA), filed March 17, 1981. Applicant: EDWARD R. CORCORAN, d.b.a. CORCORAN TRUCKING, P.O. Box 1472, Billings, MT 59103. Representative: Edward R. Corcoran (same address as applicant). *Meat and meat by-products*, from Billings, MT to points in AZ, CA, NM and TX for 270 days. Supporting shipper: Pierce Packing Co., 21 N. 15th, Billings, MT 59101.

MC 154735 (Sub-6-1TA), filed March 17, 1981. Applicant: JAKE'S CRANE & RIGGING, INC., 6109 S. Industrial Rd., Las Vegas, NV 89118. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. *Articles, the transportation of which, by reason of size or weight, requires the use of special equipment*, between points in CA, MV, AZ and UT for 270 days. Supporting shipper: There are six (6) shippers. Their statements may be examined at the regional office listed.

MC 44605 (Sub-6-6TA), filed March 17, 1981. Applicant: MILNE TRUCK LINES, INC., 2500 W. California Ave., Salt Lake City, UT 84104. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104. *Common Carrier*, Regular routes: *General Commodities*, except classes A & B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment. (1) Between San Francisco, CA and Seattle, WA, from San Francisco over Interstate Hwy 80 to junction Interstate Hwy 505, then over Interstate Hwy 505 to junction Interstate Hwy 5 to Seattle, WA and return over the same route, serving all intermediate points. (2) Between Ontario, OR and junction Interstate Hwys 5 and 205, from Ontario over Interstate Hwy 84 to Portland, OR, then over Interstate Hwy 205 to junction Interstate Hwy 5, and return over the same route, serving all intermediate points. (3) Between Spokane, WA and Ellensburg, WA, over Interstate Hwy 90, and return over the same route, serving all intermediate points. (4) Between junction Interstate Hwy 84 and U.S. Hwy 395 near Stanfield, OR and Seattle, WA, from junction Interstate Hwy 84 and U.S. Hwy 395 near Stanfield, OR over U.S. Hwy 395 to junction U.S. Hwy 730, then over U.S. Hwy 730 to junction WA Hwy 14, then over WA Hwy 14 to junction U.S. Hwy 12, then over U.S. Hwy 12 to junction WA Hwy 22, then over WA Hwy 22 to junction U.S. Hwy 97, then over U.S. Hwy 97 to junction Interstate Hwy 82, then over Interstate Hwy 82 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Seattle and return over the same route, serving all intermediate points. (5) Between junction U.S. Hwys 12 and 395 near Pasco, WA and junction U.S. Hwy 395 and Interstate Hwy 90 near Ritzville, WA, over U.S. Hwy 395 and return over the same route, serving all intermediate points, for 270 days. Authority is sought

to serve the commercial zones of all authorized points. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 52 supporting shippers. Their statements can be viewed at the regional office listed. Applicant requests authority to tack and interline.

MC 146822 (Sub-6-7), filed March 18, 1981. Applicant: EUGENE L. FRAZIER, d.b.a. SUNSET TRANSPORT SYSTEMS, 2200 N. Parmalee, Compton, CA 90222. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Food and related products* between points in CA, IA, NM, TX and WI, restricted to traffic originating from or destined to the facilities of Carnation Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036.

MC 154761 (Sub-6-1TA), filed March 17, 1981. Applicant: WALT WILSON TRUCKING, INC., 2307 East Carson St., Caron, CA 90810. Representative: Gary W. Wigland, 13031 San Antonio Dr., Suite 214, Norwalk, CA 90650. *General Commodities*, except household goods as described by the Commission, commodities in bulk, articles of unusual value, motor vehicles, and Classes A & B explosives, restricted to traffic having a prior or subsequent move by water; from, to or between points in CA, for 270 days. There are 5 shippers. Their statements may be examined at the office listed above.

MC 26396 (Sub-6-63TA), filed March 18, 1981. Applicant: THE WAGGONERS TRUCKING, P.O.B. 31357, Billings, MT 59107. Representative: Barbara S. George (Same as applicant). *(1) Dolomite, Dolomite products; and (2) materials, equipment and supplies utilized in the manufacture, distribution and sale of the commodities in (1)*, between Wheatland, WY and Gouverneur, NY, on the one hand, and, on the other, points in the U.S., for 270 days. Supporting shipper: Basins Engineering Co., Inc., P.O. Box 845, Wheatland, WY 82201.

MC 26396 (Sub-6-63TA), filed March 18, 1981. Applicant: THE WAGGONERS TRUCKING, P.O.B. 31357, Billings, MT 59107. Representative: Barbara S. George (Same as applicant). *Scrap carbon, bagged*, from Niagara Falls, NY to Wilton, IA, for 270 days. Support shipper: Larpen Supply Co., Inc., 5501 West State Street, Milwaukee, WI 53208.

[FR Doc. 81-9439 Filed 3-27-81; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel; Meeting

March 23, 1981.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended) notice is hereby given that a meeting of the Arts and Artifact Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506 in room 1426, from 9:00 a.m. to 5:00 p.m. on May 6, 1981.

The purpose of the meeting is to review applications for certificates of indemnity submitted to the Federal Council on the Arts and the Humanities for exhibits beginning after July 1, 1981.

Because the proposed meeting will consider commercial and financial data and because it is important to keep values of objects, methods of transportation, and security measures confidential, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, NW., Washington, DC 20506, or call (202) 724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 81-9463 Filed 3-27-81; 8:45 am]

BILLING CODE 7536-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17652; File No. SR-Amex-81-3]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 9, 1981, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange proposes to amend Rule 22 to make clear that Floor Officials are empowered to resolve market disputes involving Intermarket Trading System ("ITS") rules arising between Exchange members and members of other ITS participating market centers.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

Within the Amex's own market, Floor Officials have authority to resolve market disputes submitted to them by members (paragraph (c)(3) of Amex Rule 22). When the ITS rules were adopted by the Exchange, paragraph (c)(6) was added to Rule 22 to authorize Floor Officials to supervise the operation of the Intermarket Trading System on the floor of the Exchange. However, the authority of Floor Officials to resolve market disputes was not expressly extended to disputes involving ITS rules arising between Exchange members and members of other ITS participating market centers.

The proposed rule change would expressly authorize Amex Floor Officials to resolve market disputes involving ITS rules arising between members and members of other participating market centers, equivalent to the Floor Officials' authority in intra-market disputes.

The proposed amendment to Rule 22 is consistent with Section 6(b) of the Act in general and furthers the objectives of Sections 6(b) (1) and (5) in particular in

that it enhances the Exchange's ability to enforce member compliance with Exchange rules and aids in perfecting the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule charge by enhancing the enforcement of ITS rules, will tend to increase the increase the willingness of ITS users to transact business through the system, which in turn will tend to further, and not place burdens on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Dated of Effectiveness of the Proposed Rule Change and Timing from Commission Action

On or before May 4, 1987 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before April 20, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

March 23, 1981.

[FR Doc. 81-9404 Filed 3-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17647; File No. SR-PSE-81-05]

Self-Regulatory Organizations; Proposed Rule Change By Pacific Stock Exchange Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 13, 1981, The Pacific Stock Exchange Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board of Governors of The Pacific Stock Exchange Incorporated has adopted a new pilot program for the appointment of Specialists, the creation of new Specialist posts, and the evaluation of Specialist performance. This program will become effective upon approval by the Securities and Exchange Commission and will terminate not more than one year after its effective date. The terms of substance of the proposed pilot program are summarized below.

Appointment of Registered Specialists

The Equity Floor Trading Committee shall appoint Registered Specialists subject to approval by the Board of Governors of the Exchange. In order to apply for appointment as a Registered Specialist, an individual must have served as a PSE Registered Specialist within three years of the date of his application or must have had a minimum of three months' experience working as a market maker or floor broker on a National Securities Exchange or in the Over-the-Counter Market, and must pass a written examination prepared by the Pacific Stock Exchange on its rules, policies, and procedures with a passing grade of at least 80%, both within two years of the date of his application.

Before qualifying for appointment as a Registered Specialist, an individual must also function for a minimum of three months as a PSE member in a market-making capacity at a Specialist post on the floor of the Exchange. During this three-month period, the Applicant's performance will be evaluated by the Equity Listing and Allocation Committee based upon an Evaluation Questionnaire Survey and where the Applicant is trading securities which qualify, on National Market System Quote Performance and SCOREX Limit Order Acceptance Performance. The Equity Listing and Allocation Committee will then make a recommendation to the Equity Floor Trading Committee who will decide whether to qualify an Applicant Specialist to serve as a Registered Specialist subject to approval of the Board of Governors.

Creation of New Specialist Posts

Applications for the creation of a new Specialist post shall be filed with the Equity Floor Trading Committee which shall determine whether to recommend the approval of such application to the Board of Governors. If the Exchange receives more applications than it can approve because of space limitations or other constraints, the Exchange will assign posts to those Applicants it believes will provide the highest level of Specialist performance.

Evaluation of Specialist Performance

All Specialists shall be evaluated on a quarterly basis. It will be the responsibility of the Equity Listing and Allocation Committee to conduct these quarterly evaluations. The ratings received by individual Specialists in these quarterly evaluations will be considered by the Equity Listing and Allocation Committee in the assignment of new listings and will provide the basis for determining the number of dual issues each Specialist can freeze when a new Specialist post is established.

Specialist ratings shall range from 0 to 100 percent. The ratings will be based on three measures of performance:

—National Market System Quote Performance
—Specialist Evaluation Questionnaire Survey
—SCOREX Limit Order Acceptance Performance

Each Specialist shall receive a 0 to 100 percent rating on each of these three measures of performance. These three ratings will be consolidated into an overall rating using the following weighting factors:

—National Market System Quote Performance—45 perent

—Specialist Evaluation Questionnaire Survey—40 percent
—SCOREX Limit Order Acceptance Performance—15 percent

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change.* Given the importance of the Specialist to the Exchange, the complex demands of the position, and the PSE's system which allows new post to take stocks away from existing posts, the Board has concluded that the Exchange must systematically screen Applicant for Specialist positions in terms of their ability to perform as a Specialist. The proposed changes in requirements for appointment as a Registered Specialist on the Exchange necessitate a 3 to 6 month period in order to qualify an Applicant for this position. To avoid situations in which a member firm undertakes the effort of qualifying a Specialist only to find that its application for an additional Specialist post is denied due to lack of space or for some other reason, the Exchange has decided to approve applications for new posts contingent upon a member firm providing a Registered Specialist for the post within six months of the date upon which its application is approved. The Exchange would defer allocating new stocks to such a post until the Registered Specialist's application had also been approved. This new procedure will ensure that stocks are not taken from an existing Specialist post and allocated to the new Specialist post until such time as the new Specialist post has a qualified Specialist approved by the Exchange. It also allows the Exchange to continue to exercise control over the qualifications of Specialists approved for new posts since those posts could not begin operation until the Exchange had approved the appointment of the Registered Specialist.

Currently, Specialists' quarterly performance ratings are based solely on the scores received on the Specialist Evaluation Questionnaire Survey. While the Exchange believes the survey to be a relevant measure of Specialist performance; it feels that it should be supplemented by other more objective measures of performance. Under the proposed pilot program, Specialists' performance ratings will be based on three specific measures of performance which include National Market System Quote Performance, Specialist Evaluation Questionnaire Survey, and SCOREX Limit Order Acceptance Performance.

The proposed pilot program is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, in that it would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The proposed pilot program will not impose any burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments were solicited from only those members who are engaged in activities on the Equity floor of the Exchange. No comments were received from any member solicited.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before May 4, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before April 20, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary,

March 20, 1981.

[FR Doc. 81-9402 Filed 3-27-81; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

March 19, 1981.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Research-Cottrell, Inc., Common Stock, $1 Par Value (File No. 7-5884)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 9, 1981, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-9406 Filed 3-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21974; 70-6548]

Allegheny Power System, Inc., et al.; Filing of Application-Declaration

March 23, 1981.

In the matter of Allegheny Power System, Inc., 320 Park Avenue, New York, New York 10022; Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia 26554; The Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 27140; and West Penn Power Company, Cabin Hill, Greensburg, Pennsylvannia 15601.

Notice of proposal to amend charter to increase authorized shares of common stock; proposals of subsidiaries to issue and sell common stock to parent.

Notice is hereby given that Monongahela Power Company ("Monongahela"), The Potomac Edison Company ("PE") and West Penn Power Company ("West Penn"), public utility subsidiaries of Allegheny Power System, Inc. ("APS"), a registered holding company, have filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6, 7, 9, 10 and 12 of the Act and Rule 50(a) (3) promulgated thereunder as applicable to the proposed transaction. All interested parties are referred to said application-declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Monongahela, PE and West Penn each propose to amend their Charters to increase the number of shares of common stock each of them is authorized to issue. Monongahela's proposed increase of its authorized shares ($50 par value) is from 3,960,000 to 5,460,000, PE's is from 10,375,000 shares (no par value) to 12,075,000 shares and West Penn's is from 11,052,923 shares (no par value) to 15,052,923 shares.

Each subsidiary proposes to issue and sell common stock to APS. APS proposes to acquire the common stock from time to time prior to December 31, 1981 in amounts not to exceed those set forth below:

Subsidiary	Maximum No. of shares	Cash amount
Monongahela	660,000	$33,000,000
PE	1,950,000	39,000,000
West Penn	3,000,000	60,000,000

Notice is further given that any interested person may, not later than April 16, 1981, 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 the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants 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 application-declaration as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-9403 Filed 3-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21973; 70-6444]

Connecticut Yankee Atomic Power Co.; Supplemental Notice of Proposed Private Placement of Debentures and Request for Exception From Competitive Bidding Requirements

March 23, 1981.

Notice is hereby given that Connecticut Yankee Atomic Power Company ("Connecticut Yankee"), P.O. Box 270, Hartford, Connecticut 06101, a subsidiary of Northeast Utilities and New England Electric System, each a registered holding company, has filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a) and 7 of the Act and Rules 50 and 100 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration which is summarized below, for a complete statement of the proposed transaction.

Connecticut Yankee is the owner of a single generating facility, a 575,000 KW nuclear-fired electric generating plant in Haddam, Connecticut, which has been in operation since January, 1968. Outstanding shares of its common stock are owned by eleven New England utility companies ("sponsors"). Connecticut Yankee proposes to negotiate, with the assistance of an investment banker, the private placement of an issue of its medium or long-term debt securities in a maximum aggregate principal amount of $75,000,000, and it therefore requests an exception from the competitive bidding requirements of Rule 50 under the Act. Since Connecticut Yankee's Mortgage Indenture effectively precludes the issuance of additional first mortgage bonds to finance plant modifications, the securities will not be secured by a mortgage on the plant.

In order to provide support for the securities in the absence of being secured under the Mortgage Indenture, Connecticut Yankee's sponsors will either provide their several but not joint guarantees of an issue of up to $75,000,000 of securities or, in the alternative, purchase their pro rata shares of the securities. The proceeds of the issue are expected to be used (i) to repay sponsor notes authorized by order dated December 29, 1980 (HCAR No. 21854) and now aggregating $21,000,000 (ii) to repay outstanding bank term loans aggregating $20,000,000 authorized by order dated September 2, 1978 (HCAR No. 20713), (iii) to repay outstanding short-term bank borrowings and (iv) to make construction or nuclear fuel expenditures. The proceeds of the sponsor notes and short-term bank borrowings have been or will be used to make construction or nuclear fuel expenditures or to make a rate case refund of approximately $10,000,000, which is presently scheduled for March, 1981. Connecticut Yankee expects that required construction expenditures will approximate $29,317,000 in 1981 and $26,711,000 in 1982. The major part of these construction expenditures result from requirements imposed by the Nuclear Regulatory Commission.

The securities to be offered will have a term of up to 16 or 17 years and a level sinking fund, which with a 16- or 17-year term would be intended to pay off 1/16th or 1/17th of the principal amount each year. The 16- or 17-year period is approximately equal to the remaining depreciable life of the Plant. The ultimate choice as to the terms of the securities, the timing of the issue or issues and the exact amount and nature of the securities will be fixed after a preliminary exploration of the market. After determination of the market for the securities, Connecticut Yankee will negotiate for their sale. It expects to utilize the services of an investment banker for this purpose. Connecticut Yankee presently intends to effect the sale of the securities in the third or fourth quarter of 1981.

Connecticut Yankee states that such an exception is necessary because, since the nuclear accident at Three Mile Island, investors are wary of investing in utilities with substantial nuclear generating capacity. Connecticut Yankee has no other capacity and no additions are planned. It also states that since the securities cannot be first mortgage bonds, it is probable that special and complex terms will be required to support whatever type of securities it is determined are best suited to the needs of Connecticut Yankee. It is stated that such negotiations will provide the parties with the flexibility required to determine the appropriate terms for the securities in light of Connecticut Yankee's circumstances and the needs of the purchasers and will enhance Connecticut Yankee's ability to consummate the proposed transaction.

Notice is further given that any interested person may, not later than April 16, 1981, 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 the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-9405 Filed 3-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11698; 812-4801]

Putnam Daily Dividend Trust and Putnam Fund Distributors, Inc.; Filing of Application

March 23, 1981.

Notice is hereby given that Putnam Daily Dividend Trust ("Fund"), 265 Franklin Street, Boston, Massachusetts 02110, an open-end, diversified, management company registered under the Investment Company Act of 1940 ("Act") and its principal underwriter Putnam Fund Distributors, Inc. ("Distributors") (collectively "Applicants"), filed an application on January 12, 1981, and amendments thereto on February 11, 1981, and March 23, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit the Fund to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Fund is organized as Massachusetts business trust, and that its investment adviser is The Putnam Management Company, Inc. ("Adviser"). Applicants further state that the Fund's investment objective is to achieve as high a rate of current income as is consistent with the preservation of capital and maintenance of liquidity through investments in a portfolio of money market instruments. Applicants represent that the Fund's portfolio consists exclusively of: bank certificates of deposit, bankers' acceptances, prime commercial paper, high-grade short-term corporate obligations, securities issued or guaranteed as to principal and interest by the United States government or its agencies or instrumentalities, and repurchase agreements with respect to United States Treasury or agency obligations. Applicants state that investments in commercial paper will be limited to obligations rated Prime-1 Moody's Investors Service, Inc. ("Moody's") or A-1 by Standard & Poor's Corporation ("S&P"), or if not rated of comparable quality as determined by the Fund's board of trustees. Investments in corporate obligations will be limited to those having a maturity of one year or less and rated Aaa or Aa by Moody's or AAA or Aa by S&P.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors.

Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments with over 60-days maturities on an amortized cost basis

(Investment Company Act Release No. 9786, May 31, 1977).

Applicants request an exemption from the provisions of Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit the Fund to value its portfolio securities using the amortized cost method of valuation. In support of their request, Applicants represent that the Fund's board of trustees has concluded that it would be in the best interests of its shareholders to use the amortized cost valuation method to maintain the Fund's share value at a constant $1.00. Applicants state that from their experience in the marketplace, most "money market" fund investors prefer a constant net asset value per share and their investment income to be relatively stable. In this regard, Applicants state that the amortized cost valuation method would permit daily dividends to shareholders which would not vary as a result of realized and unrealized capital gains and losses. Applicants submit that the issuance of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the Act.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that their application meets the standards of Section 6(c) of the Act in light of the Fund's management policies, and consent to the imposition of the following conditions to any order granting the requested relief:

1. In supervising the Fund's operations and delegating special responsibilities involving portfolio management to the Fund's investment adviser, the board of trustees of the Fund undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objectives, to stabilize the Fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees of the Fund shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. The Fund will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the boards of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. The Fund will include in each of its quarterly reports, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than April 17, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, and order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if

[1] To fulfill this condition, the Fund intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-9407 Filed 3-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11697; (812-4814)]

Southwestern Investors, Inc., et al.; Filing of Application for an Order Exempting Proposed Transactions

March 23, 1981.

In the matter of Southwestern Investors, Inc., Southwestern Investors Income Fund, Inc., Fund of the Southwest, Inc., and Southwestern Management & Research Corp., 1807 Ross Avenue, Dallas, TX 75201.

Notice is hereby given that Southwestern Investors, Inc., Southwestern Investors Income Fund, Inc., and Fund of the Southwest, Inc. (collectively, "Funds"), each a diversified, open-end, registered management investment company, and Southwestern Management & Research Corp. ("SWMR"), the principal underwriter and investment adviser of each of the Funds (collectively with the Funds, "Applicants"), filed an application on January 30, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting from the provisions of Section 22(d) of the Act the proposed offering of shares of the Funds without sales charges to holders or beneficiaries of life insurance policies or fixed-dollar and variable annuity contracts of Southwestern Life Insurance Company ("Southwestern") who use the proceeds from those policies or contracts to purchase shares of one or more of the Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Southwestern, through intervening corporations, is a wholly-owned subsidiary of Tenneco Inc., a publicly-held company, and that SWMR, through an intervening corporation, is also a wholly-owned subsidiary of Tenneco Inc.

Applicants seek an exemptive order which would permit the purchases of shares of one or more of the Funds with proceeds from death benefit payments, maturity values or cash surrender values under Southwestern's life insurance policies or fixed-dollar and variable annuity contracts, made within 60 days after the date of the checks therefor, to be effected without sales charges otherwise applicable to purchases of shares in the Funds. According to the application, in the case of an insured or a beneficiary receiving proceeds from Southwestern in the form of periodic installment payments (such as life insurance settlement options, annuity payments or similar installment arrangements), each installment will be treated as a separate receipt of proceeds for the purpose of determining eligibility to purchase shares of the Funds without sales charges. Applicants represent that the normal sales charges of the Funds vary from 7.5 percent to 1 percent of the offering price, depending on the size of the purchase being made and the number of shares of the Funds then owned by the purchaser. Applicants also represent that the premiums paid on the Southwestern policies or contracts which constitute the source of the proceeds to be applied to purchase of shares of the Funds have already been subjected to a sales charge.

Section 22(d) of the Act provides, in part, that no registered investment company or principal underwriter therefor shall sell any redeemable security issued by the company to any person except at a current public offering price described in the prospectus. Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes thereof, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that the granting of the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that if the requested exemption is granted there will be no harm to the general public interest or to other investors in the Funds. Applicants state that, because of the affiliation between Southwestern and the Funds, the purchase of shares of the Funds with proceeds from the Southwestern policies or contracts here involved is a conversion of funds from one "Southwestern" medium to another. Furthermore, Applicants claim that since any Southwestern agent can become eligible to sell shares of the Funds, and many are so qualified (with a large majority of sales of the Funds being made by such agents), the customer-agent relationship has already been developed by Southwestern agents with many of the persons who will be receiving the proceeds from the policies or contracts and less sales efforts will be required by such agents in making sales of shares of the Funds to the persons receiving the proceeds from the Southwestern policies or contracts.

Notice is further given that any interested person may, not later than April 17, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-9408 Filed 3-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6303; (18-79)]

Vinson & Elkins Lawyers Retirement Plan; Filing of Application for Order Exempting Interests or Participations

March 23, 1981.

Notice is hereby given that Vinson & Elkins ("Applicant"), 2100 First City National Bank Building, Houston, Texas 77002, a law firm organized as a partnership under the laws of Texas

has, by letters dated June 16, 1980 and February 20, 1981, filed an application for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for any interests or participations issued in connection with the Vinson & Elkins Lawyers Retirement Plan (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

Applicant's Plan covers the Applicant's partners and associate lawyers, of whom approximately 122 partners and 117 associates were eligible to participate as of September 30, 1980. Participation in the Plan by eligible partners and associate attorneys of Applicant is mandatory, and each eligible lawyer is automatically admitted to participation upon the January 1st immediately following the date on which such lawyer began to practice law with the Applicant. Any lawyer who participated in the Plan prior to the termination of his employment commences participation immediately upon his re-employment.

The Plan is a trusteed profit sharing plan which covers persons (in this case the partners of Applicant) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code"). Therefore, even though the Plan is qualified under Section 401 of the Code, the exemption provided by Section 3(a)(2) of the Act is inapplicable to interests in the Plan absent an order of the Commission issued under Section 3(a)(2). In relevant part, Section 3(a)(2) of the Act provides that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit sharing plan which covers employees some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

The Plan was adopted effective as of January 1, 1966, and was amended and restated in its entirety, effective as of January 1, 1976, in order to comply with the Employee Retirement Income Security Act of 1974 ("ERISA"). Applicant has received a favorable determination letter from the Internal Revenue Service ("IRS") that the Plan, as amended and restated, is qualified and exempt under Section 401(a) of the Code.

Applicant states that all required contributions to the Plan on behalf of participating lawyers are made by the Applicant, without contribution by the participant, in an amount equal to 7½% of the participant's compensation in each Plan year or $7,500. In addition, under the Second Amendment to the Plan, each participant is permitted to make voluntary contributions in any amount which, when added to his prior voluntary contributions, does not exceed 10% of his compensation received during all of his years of participation in the Plan. Each participant may designate annually the manner in which his voluntary contributions shall be allocated among the following four options: a general investment fund, an equity fund, a fixed income fund or a fund composed of short term interest bearing securities. The participant may designate that all of his or her contributions shall be placed in one of the investment options or direct that his or her contributions be divided equally between two of the four available options. The funds created by the first three investment options may be invested in the Pooled Investment Fund maintained by the Trustee, First City National Bank of Houston. The fourth investment option may be invested by the Trustee in its Short-Term Securities Common Trust Fund. In addition, each participant may elect annually to transfer all or part of his account from one investment fund to another.

The Plan is administered by a committee (the "Committee") which currently consists of three persons appointed by the Management Committee of Applicant. The Committee has overall responsibility and authority for administering the Plan, including interpretation of the provisions of the Plan, establishment and enforcement of regulations and bylaws for the administration of the Plan, determination of the amount, manner and time of payment of any benefits under the Plan and the payment of the appropriate expenses of administering the Plan.

Applicant states that the assets of the Plan are held by the Trustee in trust for the exclusive benefit of participants in the Plan and their beneficiaries. The Committee has the power to appoint an investment manager to manage the assets of the Plan and to direct the Trustee with regard to the acquisition and disposition of Plan assets, so long as the investment manager is a registered investment adviser, a bank or an insurance company qualified to do business under the laws of more than one state. The Plan may be amended by Applicant, except that no amendment may be made which would vest in Applicant any interest in or control of Plan assets, or which would vary the Plan's exclusive purpose of providing benefits to participants and their beneficiaries, or which would permit diversion of Plan assets from that exclusive purpose. In addition, no amendment may be made which would reduce the nonforfeitable interest of a participant.

Applicant represents that the Plan is subject to ERISA, and the Applicant must comply with all applicable ERISA reporting and disclosure requirements. Applicant has provided all information required by ERISA to be given to participants in the Plan and intends to continue this practice.

III. Discussion

Applicant states that the exemption from registration afforded by Section 3(a)(2) of the Act is not available to Applicant because of the participation in the Plan of Applicant's partners, who are "employees" within the meaning of Section 401(c)(1) of the Code. If Applicant's business were organized in corporate form, interests and participations in the Plan would be eligible for the exemption from registration under the Act afforded by Section 3(a)(2). Applicant contends that the intent of Congress in drafting Section 3(a)(2) of the Act was to prevent the sale, without registration, of interests in complex investment vehicles offered on an indiscriminate basis by sponsoring financial institutions to self-employed persons who might not be sophisticated in the securities field or who might be unable to protect adequately their interests and those of their participating employees. Applicant's Plan is not a uniform prototype or master plan designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons, but is, Applicant asserts, an individualized plan covering eligible employees of Applicant only.

Applicant further represents that the Plan is subject to the fiduciary standards and reporting and disclosure requirements of ERISA and that the Applicant has retained substantial administrative control of the Plan, including ultimate control over the Plan's investment policies.

Finally, Applicant states that it is engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters, and for that reason is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant believes that, in light of the foregoing, granting the requested exemptive order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than April 16, 1981, at 5:30 p.m., submit to the Commission in writing a request for hearing on the matter accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at its address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following April 16, 1981, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and order issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Managment, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-9409 Filed 3-27-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-5110]

NIA Corp.; Approval of Transfer of Control of Licensed Section 301(d) Licensee

On January 13, 1981, a notice was published in the **Federal Register** (46 FR 3105) stating that NIA Corporation, 2400 South Michigan Avenue, Chicago, Illinois 60606, had filed an application with the Small Business Administration (SBA), pursuant to § 107.701 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.701 (1980)), for the transfer of control of this company to Central Venture Capital Corporation.

Interested parties were given to the close of business January 28, 1981, to submit their written comments to SBA. No comments were received.

The name, address and license number of the Licensee have been changed to: Central Venture Capital Corporation, 1739 St. Bernard Avenue, New Orleans, Louisiana 70116, License No. 06/05-5110.

Notice is hereby given that, having considered the application and all other data, SBA approved the application for transfer of control effective February 24, 1981.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 20, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-9476 Filed 3-27-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 81-022]

Marine Safety Council Staff; Change of Location

The permanent staff of the Marine Safety Council (G-CMC) has been relocated from room 2418 to room 4402 of the Coast Guard Headquarters Building. All regulatory dockets and comment files are available for public inspection at the new location.

The mailing address remains the same: Commandant (G-CMC), U.S. Coast Guard, 2100 2nd Street S.W., Washington, D.C. 20593.

Dated: March 24, 1981.

Bruce P. Novak,

Deputy Executive Secretary, Marine Safety Council.

[FR Doc. 81-9305 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Gates Learjet Model 55 Aircraft Certification and Availability of Documents

The formal type certification process of the Gates Learjet Corporation Model 55 has been completed. Airplane Type Certificate No. A10CE has been amended to include the Model 55.

The Director of the FAA Central Region has conducted a review of the issues involved in the Model 55 type certification program and the findings of the FAA certification team. He has also reviewed and discussed with his staff a document entitled "Decision Basis for Type Certification of the Gates Learjet Model 55 Airplane." Based on this review, the Director approved the amendment of Type Certificate A10CE to include the Model 55.

A copy of the "Decision Basis for Type Certification of the Gates Learjet Model 55 Airplane" is on file in the FAA Rules Docket. The bulk of the "Decision Basis" reviews the purpose, structure, conduct, and significant highlights of the certification program wherein the manufacturer demonstrated compliance with the certification basis for the Model 55. It provides a brief overview of the type inspection test results and a compliance checklist showing the means of compliance with each paragraph of the certification basis. Oter appendices and attachments pertaining to the Model 55 type certification program are also included in the document. The document is available for examination and copying at the Rules Docket, and may be obtained from the Office of the Regional Counsel, FAA Central Region, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 18, 1981.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 81-9420 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) (Utilized as an Advisory Committee); Renewal

Notice is hereby given of the renewal of the Radio Technical Commission for Aeronautics (RTCA) as an advisory committee utilized by the Federal Aviation Administration (FAA) and other Government agencies. The Associate Administrator for Engineering and Development, Federal Aviation Administration, is the sponsor.

The membership of RTCA comprises over 125 Government and industry organizations. At this time, nine Government agencies, the Departments of State, Commerce, Army, Navy and Air Force; the Federal Aviation Administration (FAA) and U.S. Coast Guard of the Department of Transportation; the National Aeronautics and Space Administration (NASA); and the Federal

Communications Commission (FCC), participate in RTCA. Private sector members include Aeronautical Radio, Incorporated (ARINC); Air Line Pilots Association (ALPA); Air Transport Association of America (ATA); Aircraft Owners and Pilots Association (AOPA); the National Business Aircraft Association (NBAA); Electronics Industries Association (EIA) Members; and Affiliated Independent Members.

The objective of RTCA is to advance the art and science of aeronautics through the investigation of all available or potential applications of the telecommunication art, their coordination with allied arts, and the adaptation thereof to recognized operational requirements. To achieve this objective, the RTCA through its special committees seeks solutions to problems involving the application of electronics and telecommunications to aeronautical operations and frequently recommends technical performance standards and operational requirements for consideration by Government, industry and aviation users.

The Secretary of Transportation has determined that the utilization of RTCA is necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Except as provided in section 10(d) of the Federal Advisory Committee Act (86 Stat. 770), meetings of all RTC committees when utilized as an advisory committee, will be open to the public.

Issued in Washington, D.C. on February 23, 1981.

A. P. Albrecht,

Association Administrator for Engineering and Development.

[FR Doc. 81-9416 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 142 on Air Traffic Control Radar Beacon System/Discrete Address Beacon System (ATCRBS/DABS) Airborne Equipment; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Radar Beacon System/Discrete Address Beacon System (ATCRBS/DABS) Airborne Equipment to be held on April 21-22, 1981 in RTCA Conference Room 267, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Seventh Meeting Held on February 17-18, 1981; (3) Review of Second Draft Report on DABS Minimum Operational Performance Standards; (4) Discussion of Digital Test Procedures; and, (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on March 23, 1981.

Karl F. Bierach,

Designated Officer.

[FR Doc. 81-9418 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 147 on Active Beacon Collision Avoidance System (BCAS); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of RTCA Special Committee 147 on Active Beacon Collision Avoidance System (BCAS) to be held on April 23-24, 1981 in RTCA Conference 267, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the First Meeting Held on February 19-20, 1981; (3) Consideration of Report Material Prepared by Drafting Groups; (4) Summarize Task Assignments; (5) Discussion on Related Technical Developments; and, (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on March 23, 1981.

Karl F. Bierach,

Designated Officer.

[FR Doc. 81-9417 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Boise, County, Idaho, Highway Project

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Boise County, Idaho.

FOR FURTHER INFORMATION CONTACT: Ralph A. Frame, Chief, Environmental Planning Branch, Western Direct Federal Division, Federal Highway Administration, 610 East Fifth Street, Vancouver, Washington 98661, Telephone: 206-696-7751.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Idaho Transportation Department (ITD) and the U.S. Forest Service (USFS), will prepare an environmental impact statement (EIS) on a proposal to improve the Banks-Lowman Highway, Idaho Forest Highway Route 24 from Sweet Creek to Lowman, a distance of 16.6 miles.

The proposed improvement will upgrade an existing graveled roadway and provide a modern, all-weather, water-grade surfaced highway. This proposal will involve clearing, grading, surfacing, bridges, pavement and revegetation. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand of local residents, tourists, logging and mining interests. The high mountain pass along State Route 21, between Idaho City and Lowman, is often blocked by heavy snowfalls which isolates the Lowman area. Construction of the proposed water-grade highway will relieve this condition.

Alternatives under consideration include: (1) taking no action (2) construction an all-weather route following a water-grade of the South Fork Payette River with alternative alignments under consideration between Sweet Creek and Little Gallagher Creek. The balance of the construction to follow the existing roadway.

Letters describing the proposed action and soliciting comments have been set to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. An Environmental Assessment has been circulated and comments received from interested and concerned agencies and individuals. Public meetings have been held in Lowman, Idaho City, Garden Valley, and Boise. No other scoping meetings are proposed. A Biological Assessment has been prepared and processed in accordance with the Endangered Species Act.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: March 17, 1981.

R. A. Westby,

Acting, Division Engineer, Western Direct Federal Division, Region 17, Vancouver, Washington.

[FR Doc. 81-9245 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Porsche; Petitions on Motor Vehicle Defects and Hearings; Denials

This notice sets forth the reasons for the denials of two petitions relating to safety-related defects in motor vehicles.

On October 10, 1980, Robert A Payne, an attorney in Alexandria, Virginia, submitted a petition on behalf of a client alleging that 1980 Porsche 924 passenger cars equipped with automatic transmissions contain a safety-related defect due to engine vibration and stalling problems. Informal investigation by NHTSA disclosed that only 307 of the vehicles in question had been imported and sold, and that no other complaints or reports of engine vibration or stalling were known either to NHTSA or to the importer, Volkswagen of America, with respect to both 1979 and 1980 models. Since it did not appear that an order requiring the manuracturer to notify and remedy was a possibility at the end of a formal investigation, the petition was denied on March 4, 1981.

Mike Mason of Lafayette, Louisiana, petitioned NHTSA on December 28, 1980, to hold a hearing to determine whether Volkswagen of America had reasonably met its obligation to remedy his 1974 Porsche 914 pursuant to its "HO Recall Campaign," alleging "at least nine different reports" to Volkswagen. NHTSA's inquiry revealed that the Volkswagen dealer in Lafayette did not handle the Porsche line, and hence was not the proper outlet to perform the repairs associated with the campaign. Mr. Mason was telephoned by the Porsche dealer in Baton Rouge, who had the necessary parts, and was requested to make an appointement for service. Based upon the fact that the problem was resolved without holding a hearing, the petition was denied on March 6, 1981.

(Secs. 124, 156, Pub. L. 93-492, 38 Stat. 1470 (15 U.S.C. 1410a, 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on March 23, 1981.

Lynn Bradford,

Associate Administrator for Enforcement.

[FR Doc. 81-9141 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-59-M

National Highway Safety Advisory Committee; Cancellation of Site Visits

The following National Highway Safety Advisory Committee site visits are cancelled. April 2 and 3 in Albany, New York; and April 23 and 24 in Madison, Wisconsin. The notice announcing the site visit was published in the **Federal Register** on March 16, 1981. April 13 and 14 in Salem, Oregon; and April 15 and 16 in Olympia, Washington. The notice announcing the site visit was published in the **Federal Register** on March 26, 1981.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on March 25, 1981.

Robert E. Doherty,

Assistant Executive Secretary.

[FR Doc. 9488 Filed 3-27-81; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 81-60]

Instruments of International Traffic; Certain Steel Cores and Fabric Separators

In the matter of T.D. 75-212 amended to designate as instruments of international traffic certain steel cores and fabric separators used together to hold rayon or nylon fabric or ply.

Treasury Decision 75-212, among other things, designated as "instruments of international traffic", within the meaning of section 322(a), Tariff Act of 1930, as amended, "steel cores designed to hold rayon or nylon fabric or ply, measuring 65 inches in length and 42½ inches in circumference".

It has been established to the satisfaction of the U.S. Customs Service that the steel cores designated as instruments of international traffic in T.D. 75-212 are incapable of transporting rayon or nylon fabric or ply without damage unless used together with fabric separators which separate the rayon or nylon fabric or ply as it is wound on the core. It also has been established to the satisfaction of the Customs Service that the fabric separators, consisting of thin woven synthetic fabric, are substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic.

Under the authority of § 10.41a(a)(1), Customs Regulations, I hereby amend Treasury Decision 75-212 to provide that the steel cores described in that Treasury Decision and the above-described fabric separators, when used together as an entity to transport rayon or nylon fabric or ply to be used in tire manufacture, are designated as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322(a)), and may be released under the procedures provided for in § 10.41a, Customs Regulations. (104356).

(BOR-7-07)

Dated: March 24, 1981.

Marilyn G. Morrison,

Director, Carriers, Drawback and Bonds Division.

[FR Doc. 81-9239 Filed 3-27-81; 8:45 am]

BILLING CODE 4810-22-M

VETERANS ADMINISTRATION

Veterans Administration Medical and Regional Office Center, Fargo, North Dakota; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the new Regional Office Building at the Veterans Administration Medical and Regional Office Center (VAMROC), Fargo, North Dakota.

The project proposes to construct a New Regional Office Building, five car garage and connecting tunnel to building no. 1. Also included are outdoor parking, new roads and demolition of building no. 2 (duplex quarters and alcohol treatment center), building no. 31

(parking garage) and building no. 36 (duplex quarters). The parking garage is being relocated as a result of the proposed project. The alcohol treatment center will be relocated in the existing hospital space.

The new building will be a two-story structure consisting of a basement and first floor. An underground tunnel connection to building no. 1 and a future corridor connection to the clinical addition will be made.

Two sites were considered for the new regional office building, one directly north of building no. 9 and one directly north of building no. 1. While the site north of building no. 9 leaves more parking intact and is more suitable to site grades, the proposed site north of building no. 1 has better functional relationships and facilitates a better tunnel connection to the main hospital.

Development of the proposed project will have temporary impacts of noise, dust and fumes during the construction phase. Erosion and sedimentation may occur as a result of fill and grading. Long term impacts include the removal of several large oak trees. The proposed parking areas will have noise and visual impacts on the occupants of the surrounding buildings. Site roads and parking will be altered but should not have an adverse effect.

Temporary impacts of construction on air quality and noise levels will be reduced by control measures as specified in contract documents. Soil erosion and sedimentation controls will be implemented. Impacts of the proposed parking areas can be partially mitigated by the use of sound barrier fences and landscape techniques. Every effort should be made to incorporate into the new parking areas the existing oak trees that are significant.

To avoid an adverse aesthetic impact, materials and design compatible with the existing architectural style should be used. The height of the new structure should be lower than building nos. 1 and 9. Location of the proposed parking facilities should be reconsidered in order to save building no. 2.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, DC. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 950, Veterans Administration, 1425 K Street, NW, Washington, DC, (202) 389-2526. Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Office (003A), 810 Vermont Avenue, NW, Washington, DC, 20420.

Dated: March 23, 1981.

Rufus H. Wilson,

Acting Administrator.

[FR Doc. 81-9446 Filed 3-27-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 60
Monday, March 30, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-310 Amdt. 2, Mar. 23, 1981]

CIVIL AERONAUTICS BOARD.

Addition of Item to the March 24, 1981 Board Meeting.

TIME AND DATE: 10 a.m., March 24, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 13a. Dockets 38267 and EAS-351, Essential Air Transportation Determination of Eureka/Arcata, California, and Notice of intent of Century Airlines, Inc. to reduce service below essential at Eureka/Arcata, California—request for instructions. (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary, (202) 673-5068.*

[S-502-81 Filed 3-26-81; 8:45 am]

BILLING CODE 6320-01-M

2

[M-310 Amdt 3, Mar. 24, 1981]

CIVIL AERONAUTICS BOARD.

Deletion of Items From the March 24, 1981 Board Meeting

TIME AND DATE: 10 a.m., March 24, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: Deleted:

2. Docket 36244, Carrier Selection Case For Columbus, Hastings, Kearney and McCook, Nebraska. Instructions to the staff (BDA)

19a. Docket 35634, IATA North Atlantic cargo rate agreement (Memo 370, BIA)

STATUS: Open.

PERSON TO CONTACT: PHYLLIS T. KAYLOR, THE SECRETARY (202) 673-5068.

[S-501-81 Filed 3-25-81; 5:11 pm]

BILLING CODE 6320-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

Meeting
March 25, 1981.

TIME AND DATE: 10 a.m., April 1, 1981.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 537-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however all public documents may be examined in the Division of Public Information.

Power Agenda—485th Meeting, April 1, 1981, Regular Meeting (10 a.m.)

CAP-1. Project No. 2780, Solano Irrigation District; Project No. 3220, Napa County, Calif.

CAP-2. Docket No. EL80-19, Massachusetts Municipal Wholesale Electric Co. v. Power Authority of the State of New York; Docket No. EL80-24, Connecticut Municipal Electric Energy Cooperative v. Power Authority of the State of New York

CAP-3. Docket No. EL79-31, Iowa Electric Light & Power Co.

CAP-4. Docket No. E-9601, Lake Oswego Corp.

CAP-5. Docket No. E-7631 and E-7633, City of Cleveland, Ohio v. The Cleveland Electric Illuminating Co.; Docket No. E-7713, City of Cleveland, Ohio

CAP-6. Docket Nos. ER77-488 and ER78-520 (phase II), El Paso Electric Co.

CAP-7. Docket Nos. ER77-354 and ER78-14, Missouri Utilities Co.

CAP-8. Docket No. ER79-121, Utah Power & Light Co.

CAP-9. Docket No. ER81-177-000, Southern California Edison Co.

CAP-10. Docket Nos. ER79-642, ER80-124 and ER81-166-000, Missouri Utilities Co.

CAP-11. Docket No. ER80-559, Kansas Power & Light Co.

CAP-12. Docket No. EF80-3031, Southeastern Power Administration—Jim Woodruff Project

CAP-13. Docket No. ES81-20-000, Gulf States Utilities Co.

CAP-14. Docket No. ES81-24-000 El Paso Electric Co.

Gas Agenda—485th Meeting, April 1, 1981, Regular Meeting

CAM-1. Docket No. RM80-62, Section 206(d), exemption for mechanical cogeneration facilities from the incremental pricing provision of the Natural Gas Policy Act

CAM-2. Docket No. RM80-69, proposed revision to annual report of gas supply for certain natural gas pipelines; Form No. 15

CAM-3. Docket No. RA80-1, Ron's Shell Service, Inc.; Docket No. RA80-7, Mac Hardy Oil Co.; Docket No. RA80-8, Gold Key Shell; Docket No. RA80-12, Earl McCarley Service Station; Docket No. RA80-13, Kingsport Publishing; Docket No. RA80-16, Michael Doyle; Docket No. RA80-18, Bud's "66"; Docket No. RA80-19, Diversified Properties, Inc.; Docket No. RA80-21, Saffari Mobil Service; Docket No. RA80-23, Stax Gas & Truck Stop; Docket No. RA80-25, Woodruff Standard Service Station; Docket No. RA80-30, Ceed Enterprises, Inc., d.b.a. Westside Texaco; Docket No. RA80-32, Koch's Exxon Service; Docket No. RA80-33, Phillips & Muncell Shell; Docket No. RA80-35, McKee Marathon Service Station; Docket No. RA80-37, Independent Oil & Tire Co.; Docket No. RA80-38, Bellevue Texaco; Docket No. RA80-39, Channell's Gulf Service; Docket No. RA80-40, Commodities Exchange Center; Docket No. RA80-41, Eagle's Chevron Service; Docket No. RA80-42, L&L Arco Service; Docket No. RA80-46, Bob's Philips 66 Service Station; Docket No. RA80-49, Madiros Torikian; Docket No. RA80-51, Alameda Texaco; Docket No. RA80-53, Art Frost Leasing Co., (Glendale Automotive Service); Docket No. RA80-57, Metro Car Wash; Docket No. RA80-58, A. T. Smith Mercantile; Docket No. RA80-60, Ahmad Avash, d.b.a. Shoreline Texaco; Docket No. RA80-63, Tower Park; Docket No. RA80-66, Holiday Gulf; Docket No. RA80-68, Crossroads Shell; Docket No. RA80-70, John Mrjenovich; Docket No. RA80-72, Faith Oil Co.; Docket No. RA80-73, S&R Shell Service Station; Docket No. RA80-74, Benett's Standard, Inc.—Docket No. RA80-75, Huber's Inc.; (Budget Rent-a-Car of Louisville); Docket No. RA80-78, Westwood Car Wash; Docket No. RA80-80, Staatsburg Auto; Docket No. RA80-81, Chuck & Jim's Mobil; Docket No. RA80-83, Robert F. Badders; Docket No. RA80-84, Seasweet Crabmeat; Docket No. RA80-86, Rainbow Standard Service; Docket No. RA80-88, Bill's Pershing Mobil; Docket No. RA80-89, Ron's Arco Station; Docket No. RA80-90, Vern's Service Station; Docket No. RA80-91, Arvin-Edison Water Storage District; Docket No. RA80-92, Wedge Service Station, Inc.; Docket No. RA80-94, William's Mobil Service; Docket No. RA80-97, Geneva Grain & Lumber, Inc.; Docket No. RA80-100, Food Etc.; Docket No. RA80-

101, Ferry Landing Woods; Docket No. RA80-102, Pennant Petroleum Co.; Docket No. RA80-103, Jeffrey Moore d.b.a. Moore's Arco; Docket No. RA80-104, Tom's Mobil; Docket No. RA80-105, Rick's Green Trails Texaco Service; Docket No. RA80-106, Charles Fenley Enterprises; Docket No. RA80-107, Mojave Petroleum Co.; Docket No. RA80-109, Citizen Tribune; Docket No. RA80-110, Thunderbird Chevron Service; Docket No. RA80-111, Lynn's Country Store; Docket No. RA80-112, Zanni's Chevron; Docket No. RA80-113, Melrose Park Shell Service; Docket No. RA80-114, Tom Harney Oil Co.; Docket No. RA80-115, Pioneer Mobil Service Center; Docket No. RA80-116, ABC Union Cab Co.; Docket No. RA80-117, Avco Corp.; Docket No. RA80-118, Campus Chevron; Docket No. RA80-120, William Pase, Inc.; Docket No. RA80-122, Green Springs Chevron Station; Docket No. RA80-123, Big Country Exxon; Docket No. RA80-124, Go-Clean, Inc.; Docket No. RA80-125, Super America of Flathead County; Docket No. RA80-126, Niles Avenue Standard Service; Docket No. RA80-127, R. Dale Norris d.b.a. One Stop Auto Shop; Docket No. RA81-2-000, Hergert Oil Co.; Docket No. RA80-3-000, Upper Adams School District; Docket No. RA81-4-000, American Motohol Supply Corp.; Docket No. RA81-8-000, Champion Oil Service Co.; Docket No. RA81-9-000, Academy Service Station; Docket No. RA81-10-000, Iverson Service Station; Docket No. RA81-11-000, Courtesy Fuel, Inc.; Docket No. RA81-12-000, Homewood Service Center; Docket No. RA81-13-000, Les Francis Auto Rental Leasing and Investment Corp.; Docket No. RA81-15-000, Raymond A. Lally d.b.a. Lally's Chevron, Inc.; Docket No. RA81-16-000, Toy Enterprises; Docket No. RA81-17-000, The Boeing Co.; Docket No. RA81-19-000, Hawk Oil Co.; Docket No. RA81-20-000, Read, Martin, Frandsen & Associates (The Read Group); Docket No. RA81-21-000, Robert Gregory Enterprises d.b.a. Bubble Machine; Docket No. RA81-22-000, Gilbert's Corner Exxon; Docket No. RA81-23-000, Eagle Oil Co.; Docket No. RA81-24-000, Viacom Cablevision; Docket No. RA81-27-000, J. C. Penney Co.; Docket No. RA81-28-000, Ronald J. Koch d.b.a. Eddies Market; Docket No. RA81-29-000, Start Oil Co.; Docket No. RA81-30-000, Amndt Oil Co.; Docket No. RA81-31-000, Henry's Gulf; Docket No. RA81-32-000, Pracher Oil Co.; Docket No. RA81-33-000, Advanced Sales Corp.; Docket No. RA81-34-000, Frederick G. Jackson d.b.a. Midway Oil Co.; Docket No. RA81-35-000, Wawarsing Service Station; Docket No. RA81-36-000, Diamond Gas & Fuel Co.; Docket No. RA81-38-000, Len Gregory d.b.a. Redding Uni-Hoist; Docket No. RA81-40-000, James M. Tidwell d.b.a. Spring Creek Enterprises; Docket No. RA81-41-000, Thrifty Rent-a-Car, Inc. of California; Docket No. RA81-42-000, The Filling Station;

CAM-4. Docket Nos. RA80-5 and RA80-82 (consolidated), San Ann Service, Inc.

CAM-5. Docket No. RA80-48, Alfred M. Rousseau

Gas Agenda—485th Meeting, April 1, 1981, Regular Meeting

CAG-1. Docket No. TA81-1-29-002 (PGA-1, IPR81-1, DCA81-1 and LFUT81-1), Transcontinental Gas Pile Line Corp.

CAG-2. Docket No. RP81-1-43-000, Pacific Gas Transmission Co.

CAG-3. Docket No. RP73-65, Columbia Gas Transmission Corp.; Docket No. RP67-18, Panhandle Eastern Pipe Line Co.

CAG-4. (a) Docket No. RP80-61, Consolidated Gas Supply Corp.; (b) Docket No. RP81-12-000, Consolidated Gas Supply Corp.

CAG-5. Docket Nos. RP80-83 and RP80-111, ANR Storage Co.

CAG-6. Docket No. RP80-113, Mid Louisiana Gas Co.

CAG-7. Docket Nos. RP80-133, RP67-10 and RP78-68, Texas Eastern Transmission Corp., Texas Gas Transmission Corp. and United Gas Pipe Line Co.

CAG-8. Docket No. OR78-1, Trans Alaska Pipeline System

CAG-9. Docket Nos. G-12399 and G-18708, Arco Oil & Gas Co., Division of Atlantic Richfield Co.

CAG-10. Docket Nos. CI79-552, CI79-553, CI78-758, CI78-759, CI78-882, CI78-981, CI78-816 and CI78-1191, Exxon Corp.

CAG-11. Docket Nos. CS75-265, et al., Sanford P. Fagadau, et al.; Docket No. CI78-37, The Superior Oil Co.; Docket No. CI78-435, Helmerich & Payne, Inc.; Docket No. CS80-105, Lamson/Onshore Petroleum; Docket No. CI81-81-000, Kerr-McGee Corp.; Docket No. CI81-82-000, Kerr-McGee Corp.; Docket No. CI81-83-000, Kerr-McGee Corp.; Docket No. CI81-86-000, Freeport Oil Co.; Docket No. CI81-87-000, Mesa Petroleum Co.; Docket No. CI81-88-000, Mesa Petroleum Co.; Docket No. CI81-89-000, Transco Exploration Co.; Docket No. CI81-80-000, The Superior Oil Co.; Docket No. CI77-518-003, Exxon Corp.; Docket No. CS77-579-001, Cities Service Co.; Docket No. CI80-20, Mcor Oil & Gas Corp.; Docket No. CI79-129-001, Chevron U.S.A. Inc.; Docket No. CI81-118-000, Aminoil Development, Inc.; Docket No. CI81-76-000, Texoma Production Co.; FERC Gas Rate Schedule Nos. 35 and 312, Exxon Corp.

CAG-12. Docket No. CP79-464, Florida Gas Transmission Co. and Continental Resources Co.; Docket Nos. CI73-676, et al., Continental Exploration Co.

CAG-13. Docket No. CP80-211, Florida Gas Transmission Co. and Southern Natural Gas Co.

CAG-14. Docket No. CP80-409, Panhandle Eastern Pipe Line Co.

CAG-15. Docket No. CP80-458, Mitco Pipeline Co.

CAG-16. Docket No. CP80-494, Southern Natural Gas Co., Florida Gas Transmission Co., Michigan Wisconsin Pipe Line Co., Northern Natural Gas Co., a division of Internorth, Inc. and Transcontinental Gas Pipeline Corp.

CAG-17. Docket Nos. CP81-54-000 and CP81-54-001, Southern Natural Gas Co.

CAG-18. Docket No. CP81-76-000, Mountain Fuel Supply Corp.

Power Agenda—485th Meeting, April 1, 1981, Regular Meeting

I. Licensed Project Matters

P-1. Docket No. EL79-17, Swan Lumber Co.

P-2. Project No. 2545, Washington Water Power Co.

II. Electric Rate Matters

ER-1. Docket No. ER81-141-000, Potomac Edison Co.

ER-2. Docket No. ER77-578, Kansas Gas & Electric Co.

ER-3. Docket No. ER78-522, Virginia Electric & Power Co.

ER-4. Docket No. ER78-338 (phase I), Public Service Co. of New Mexico

Miscellaneous Agenda—485th Meeting, April 1, 1981, Regular Meeting

M-1. Docket No. RM81- , Procedures for protest for stripper well natural gas

M-2. Docket No. GP80-8, Colorado Interstate Gas Co.

Gas Agenda—485th Meeting, April 1, 1981, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket No. TA81-1-32 (PGA81-1 and IPR81-1), Colorado Interstate Gas Co.; Docket No. TA81-1-30, Trunkline Gas Co.; Docket No. TA81-1-29, Transcontinental Gas Pipe Line Corp.

RP-2. Docket No. RP79-76 (reserved issue), Cities Service Gas Co.

II. Producer Matters

CI-1. Reserved

III. Pipeline Certificate Matters

CP-1. Docket No. RP73-6, Mississippi River Transmission Corp.

CP-2. Docket No. TC79-8, Transcontinental Gas Pipe Line Corp.

CP-3. Docket Nos. CP78-123, et al., Northwest Alaskan Pipeline Co.; Docket No. CP78-124, Northern Border Pipeline Co.; Docket No. CP81-18-000, Northern Natural Gas Co., a division of Internorth, Inc.; Docket No. CP79-332, Natural Gas Pipeline Co. of America, Michigan Wisconsin Pipe Line Co., Tennessee Gas Pipeline Co., a division of Tenneco Inc. and Texas Eastern Transmission Corp.

Kenneth F. Plumb,

Secretary.

[S-504-81 Filed 3-26-81; 9:23 am]

BILLING CODE 6450-85-M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 46, FR 18879, March 26, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Wednesday, April 1, 1981.

PLACE: 1700 G Street N.W., Board Room, Sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the bank board meeting scheduled for Wednesday, April 1, 1981.

Service Corporation Amendment

No. 466, March 26, 1981.

[S-507-81 Filed 3-26-81; 3:30 pm]

BILLING CODE 6720-01-M

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 17949, March 20, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., March 26, 1981.

CHANGE IN THE MEETING: Withdrawal of the following item from the closed session:

1. Docket No. 76–34—Tariff FMC 6, Rule 22 of the Continental North Atlantic Westbound Freight Conference; and Docket No. 76–36—Tariff Rules Concertedly Published Defining Practices of Conferences and Rate Agreement Members Regarding the Acceptance and Responsibility for Shipper-Owned or Shipper Leased Trailers or Containers—Scope of Further Proceedings.

[S-503-81 Filed 3-26-81; 8:45 am]

BILLING CODE 6730-01-M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

March 25, 1981.

TIME AND DATE: 10 a.m., Wednesday, April 1, 1981.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Council of the Southern Mountains v. Martin County Coal Corporation, Docket No. KENT 80–222–D. (Petition for Discretionary Review; issues include whether operator's refusal to permit non-employee representatives of miners to attend miner training sessions on company property violates section 105(c) of the 1977 Mine Act.)

2. Ideal Basic Industries—Cement Division, Docket No. SE 79–16–M (Issues include interpretation and application of 30 CFR 56.9–2).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S-506-81 Filed 3-26-81; 1:43 pm]

BILLING CODE 6820-12-M

7

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 2 p.m., Tuesday, March 31, 1981.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: To consider candidates for Regional Director, Region, 20, San Francisco, California.

CONTACT PERSONS FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570; Telephone (202) 254–9430.

Dated: Washington, D.C., March 26, 1981.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[S-505-81- Filed 3-26-81; 11:24 am]

BILLING CODE 7545-01-M

federal register

Monday
March 30, 1981

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Licensing of Ocean Thermal Energy Conversion Facilities and Plantships; Proposed Rulemaking

DEPARTMENT OF COMMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 1001

Licensing of Ocean Thermal Energy Conversion Facilities and Plantships

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice of proposed rulemaking.

SUMMARY: NOAA proposes to establish a stable legal system and a streamlined licensing process to facilitate commercial development of ocean thermal energy conversion (OTEC) facilities and plantships. This Notice of Proposed Rulemaking (NPR) sets out the details of a simplified licensing system for ownership, construction, location, and operation of OTEC facilities and plantships which are associated with the United States or U.S. citizens, and is being issued in accordance with the responsibilities assigned to NOAA by the Ocean Thermal Energy Conversion Act of 1980, Public Law 96–320, ("the Act").

Interested persons are invited to review the NPR and to contribute to the development of final OTEC licensing regulations by submitting comments.

DATES:

(1) Comments on the NPR should be received by NOAA on or before May 18, 1981.

(2) NOAA will hold a public hearing on the NPR in Washington, D.C. on May 11, 1981, between 9 a.m. and 12 noon.

(3) NOAA will hold a public hearing on the NPR in San Juan, Puerto Rico, on May 1, 1981, between 10 a.m. and 1 p.m.

(4) NOAA will hold a public hearing on the NPR in Honolulu, Hawaii, on April 27, 1981, between 9 a.m. and 12 noon.

ADDRESSES:

(1) Send written comments on the NPR and requests for documents associated with this rulemaking to Robert W. Knecht, Director, Office of Ocean Minerals and Energy, NOAA, Room 410, Page 1 Building, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235. Please mark the outside of the envelope with "OTEC NPR."

(2) The public hearing in Washington, D.C. will be held in Room 6802, Department of Commerce Building, 14th Street between Pennsylvania and Constitution Avenue, NW, Washington, D.C.

(3) The public hearing in San Juan, Puerto Rico will be held in Room A1 and B1, Institute of Engineers and Surveyors of Puerto Rico, Antolin Nin and Eskeret Streets, Hato Rey, Puerto Rico.

(4) The public hearing in Honolulu, Hawaii will be held in U.S. District Court Room No. 4, 4th Floor, Prince Kuhio Federal Building, 300 Ala Moana Blvd., Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Richard Norling or Lowell Martin, Office of Ocean Minerals and Energy, NOAA, Room 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235. Telephone: (202) 254–3483.

SUPPLEMENTARY INFORMATION:

I. Principal Author

The principal author of this proposed rulemaking is Lowell F. Martin of the Office of Ocean Minerals and Energy, NOAA, assisted by the NOAA Office of General Counsel.

II. Prior Actions in this Rulemaking

A. Environmental Scoping Process

To provide for an early and open process to determine the scope of environmental issues associated with development of OTEC licensing regulations, NOAA developed an environmental issues discussion document and held a public "scoping" meeting on October 30, 1980. Notice of the scoping meeting and the availability of the discussion paper was published at 45 FR 63543 and 63544 on September 25, 1980. (See Section VIII. D of this notice or proposed rulemaking for information on the environmental impact statement being developed as part of the rulemaking.)

B. Advance Notice of Proposed Rulemaking

To provide an early opportunity for interested persons to contribute to development of the proposed regulations contained in this NPR, NOAA published an Advance Notice of Proposed Rulemaking (ANPR) at 45 FR 77038 on November 21, 1980. The ANPR identified three general alternative regulatory approaches under consideration by NOAA as well as 20 specific issues on which NOAA sought public comment. The ANPR invited public comment and was mailed to several hundred interested persons. A public hearing was held on January 7, 1981.

III. Availability of Comments

All comments received in response to the ANPR and this NPR will be available for public examination and copying during normal business hours in Room 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C.

IV. Final Rules

NOAA will issue final rules to implement the Act after comments received in response to this NPR have been evaluated. Public hearings on the NPR will be held as noted in the ADDRESSES and DATES sections of this NPR. NOAA plans to issue final rules in August 1981.

V. Background

Ocean Thermal Energy Conversion (OTEC) is a process for using solar energy stored in the warm surface waters of the ocean as a renewable source of power to produce electricity or other energy intensive products such as ammonia or aluminum. The OTEC process is driven by the temperature differential between warm ocean surface waters and cold, deep waters. It can be implemented by means of an OTEC facilitiy, which is moored or fixed to the ocean bottom, or located on land with intake and discharge piping running out to appropriate locations in the ocean. OTEC plantships which float unmoored or move through the ocean can also use the OTEC process.

The OTEC principle can be applied efficiently in areas where the temperature difference between surface waters and deep waters is about 20° C or more. This makes the most probable U.S. locations for OTEC facilitaties or plantships the Gulf of Mexico area, the southeastern continental United States, and the island areas under U.S. jurisdiction such as the State of Hawaii, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands and American Samoa.

The OTEC industry is in a formative stage at present because, although the basic principles of OTEC power generation have been developed and demonstrated at sea, the hardware, engineering, and operational requirements of commercial-scale OTEC operations have not yet been fully developed, and to conduct that developement will require substantial private sector capital investment, on the order of $25–100 million or more per OTEC facility or plantship.

Estimates in the report of the House of Representative Committee on Merchant Marine and Fisheries on H.R. 6154, which was a predecessor to the OTEC Act, indicate that OTEC could provide from 5 to 20 percent of all new electrical generating capacity coming on line in the U.S. by the year 2000 if commercial development of OTEC is agressively pursued. The OTEC Research, Development and Demonstration Act, Public Law 96–310, sets a goal of 10,000 megawatts of installed U.S. OTEC capacity by the year 1999.

Meeting that goal would stimulate capital investment on the order of $25

billion in the evolving OTEC industry and its suppliers. If that projected OTEC capacity replaced the use of imported oil for electricity generation and other product production, an import reduction of 360,000 barrels per day would result, with a concurrent reduction of $4.6 billion per year in oil import costs (as $35 per barrel).

Later development of OTEC technology to produce energy intensive products, such as ammonia, could also have significant implications for reducing fossil fuel consumption in the United States. The substitution of OTEC produced ammonia for ammonia currently produced from natural gas could conserve the equivalent of 300,000 to 500,000 barrels of oil per day, based on the fact that approximately 3% of U.S. natural gas production is currently used in ammonia production.

Commercial OTEC technology also represents a major export opportunity for the United States. Approximately 70 countries and territories, many of them lesser developed counties which are now dependent on imported oil, are located near exploitable OTEC resource areas. If even a small fraction of the projected demand for new electrical generating capacity in those countries between the years 1990 and 2010 were met through export of U.S.-built OTEC facilities and plants, the OTEC export market potential would be on the order of $200–300 billion dollars.

Achieving these ambitious objectives requires governmental action where necessary to remove legal and other institutional barriers before they would seriously impede commercial OTEC development. Federal legislation which clearly states jurisdictional authority and governmental policies applicable to commercial OTEC ventures, and which, in particular, provides legal protection for OTEC facilities and plantships from interference with the thermal resource on which their economic viability depends, is a necessary prerequisite to the private capital investment necessary for OTEC commercialization. The Congress recognized and responded to this need in passing the Ocean Thermal Energy Conversion Act of 1980, Public Law 96–320 (the Act). The Act establishes United States jurisdiction over OTEC facilities located in the U.S. territorial sea or connected to the United States by pipeline or cable, OTEC facilities or plantships documented under U.S. laws, and OTEC plantships owned or operated by U.S. citizens; specifies which Federal and State laws apply to OTEC facilities under U.S. jurisdiction; and establishes a fair and expeditious "one-stop" licensing regime which will insure compliance by U.S. OTEC facilities and plantships with both U.S. and international law.

The Act assigns responsibility for establishing and maintaining the OTEC licensing regime to the Administrator of NOAA. This rulemaking responds to that responsibility and is a major step by NOAA in responding to the goal of the Act to, "establish a legal regime which will permit and encourage the development of ocean thermal energy conversion as a commercial energy technology . . [.]"

VI. NOAA's Responses to Comments Received on the ANPR

As noted in section II.B. of this preamble, NOAA published an ANPR on the OTEC licensing program on November 21, 1980. That notice raised the general issue of the regulatory approach to be used in the licensing program and also posed twenty specific issues related to implementation of the Act for public review and comment. In response to the nine written comments received and statements made at the public hearing held in January 1981, NOAA has established positions on the issues which are reflected in this NPR.

A. General Regulatory Approach

NOAA has evaluate three general regulatory approaches to OTEC licensing: (1) establishment of initial regulations specifying the designs to be used for OTEC plant components and requiring use of specific operating procedures, (2) establishment of detailed performance standards and guidelines in initial regulations with the burden on the applicant to prove compliance with each of the detailed performance standards and guidelines as a prerequisite to obtaining a license, or (3) establishment of general guidelines and performance standards in initial regulations and use of detailed guidelines and performance standards as license terms and conditions coupled with subsequent operational and environmental monitoring to ascertain whether additional requirements are necessary in the future. All written comments received, as well as several statements made at the public hearing, encouraged NOAA to adopt the third approach as most appropriate to the developmental state of the OTEC industry and the need to accommodate to site- and technology-specific issues which will be raised when an OTEC application is submitted for licensing. NOAA has done so as reflected in this rulemaking.

B. Specific Issues Raised in ANPR

The Application and License Process

Issue No. 1: Information to be Submitted with an Application. NOAA raised the general issue of the types and level of detail of financial, technical and other information which should be reqired with an application for an OTEC license. Specific issues regarding the information necessary for the Attorney General to conduct the antitrust review required under § 104 of the Act, and the need, if any, for information related to granting of financial assistance by the Maritime Administration under Title XI of the Merchant Marine Act of 1936, were also raised. NOAA's initial view was that the information required in an application should be minimized, consistent with the requirements of the Act. Several commentors endorsed this approach and it has been adopted in this NPR.

One commentor suggested NOAA contact the Justice Department to obtain their views on necessary antitrust review information and then incorporate those requirements into the NPR. This has been done and the information requirements proposed by the Justice Department have been incorporated into the proposed regulations. These requirements include reporting on those persons with ownership or control interests in the applicant and its affiliates.

Several commentors noted that information required for granting of financial assistance under Title XI of the Merchant Marine Act of 1936 might be better provided directly to the Maritime Administration later in the OTEC licensing process since the obtaining of such assistance is optional on the part of an OTEC license applicant and since the Act does not mention financial conditions, other than antitrust considerations, as among the conditions specified for restricting issuance of a license. NOAA agrees with this view, and the proposed rules do not require submission of Title XI information with a license application. Potential applicants for Title XI assistance should be aware, however, that citizenship requirements related to eligibility for such assistance are more rigorous than those under the Act related to eligibility for an OTEC license. Early consultation with MARAD is encouraged.

The Act assigns significant responsibilities to the Secretary of the department in which the Coast Guard is operating, under Section 108, "Marine Environmental Protection and Safety of Life at Sea" and Section 109(c), "Prevention of Interference With other Uses of the High Seas", among others. NOAA has consulted with the Coast Guard to determine their views on information required in an application to enable the Coast Guard to carry out

their responsibilities. Those requirements are incorporated into the proposed rules in § 1001.190 and §§ 1001.230 through 1001.250. Similarly to the situation with respect to the MARAD citizenship requirements, Coast Guard citizenship requirements related to documentation of vessels are more rigorous than those of the Act, and early consultation with the Coast Guard by potential OTEC license applicants is encouraged.

Issue No. 2: Amount of Application Fees. Section 102(h) of the Act requires an OTEC license applicant to submit a nonrefundable application fee with the application. The Act further requires that the total fee reflect reasonable administrative costs incurred in reviewing and processing the application. NOAA has estimated those costs, including preparation of the application-specific Environmental Impact Statement required by the Act, at two hundred fifty thousand dollars ($250,000.00). Accordingly, this NPR sets the application fee at that amount.

Several commentors suggested that payment of the application fee be spread out over the license application review period and that it be based on actual incurred review costs. NOAA concurs in the concept of phased payment as a means of reducing the burden of initial capital outlay on the applicant, and that approach is reflected in § 1001.130 of this rulemaking. The initial, nonrefundable payment due with the application has been set at one-hundred thousand dollars ($100,000.00) to discourage speculative applications.

NOAA considered assessing the remainder of the application fee on the basis of actual incurred review costs rather than as a flat fee based on estimated processing costs. That concept was rejected, however, due to the increased administrative burden, and thus increased cost to the applicant, which would be associated with detailed record keeping, accounting, and billing over the license application review period.

Issue No. 3: "One-stop" Application and Licensing Process. The Act specifies that the application to NOAA constitutes application for all Federal authorizations required to be obtained by the applicant, except for those administered by the Secretary of the Department in which the Coast Guard is operating. Application to the Maritime Administration for Title XI financial assistance is also not within the ambit of the single application provided for in the Act. A further requirement of the Act is that NOAA consolidate its public hearings on a license application with those of other agencies, insofar as practicable. A number of commentors encouraged NOAA to take an active role in assuring coordinated and efficient processing of all governmental authorizations required for the applicant's OTEC proposal. NOAA has responded to those comments with the voluntary Consolidated Application Review (CAR) process proposed in *Subpart C—License Application Review Procedures* of this NPR. The proposed process involves early designation of Federal, State, and local government members to serve, with the applicant, on a CAR team for the application. NOAA would chair the CAR team, and its initial responsibility would be to develop a Joint Agreement identifying the CAR team members; specifying the responsibilities of all CAR team members, including the applicant, in the application review process; and scheduling each government member's review process for the application, including necessary hearings and decision points. The next step in the process would be holding a public meeting at which the applicant would describe the details of his OTEC proposal and the government members of the CAR team would explain their respective roles in the review process. This meeting would most likely also cover environmental issues specific to the application as part of the Environmental Impact Statement (EIS) "scoping" process mandated by the National Environmental Policy Act (NEPA). After the public meeting, the role of the CAR team would be to continue coordination and exchange of information to assure meeting the Joint Agreement schedule to the maximum practicble extent. The propsoed CAR process would provide the applicant with a single focus for processing of the application and assure that governmental review activities were integrated wherever possible. The goal of the process is to minimize the burden on the applicant by providing early identification of all steps necessary to obtain governmental approvals as well as a mechanism for setting schedule goals and meeting them. Initial contact with other Federal agencies and departments which will likely be involved in the review process has been positive with regard to employing the proposed CAR process, which is voluntary on the part of the applicant and government entities other than NOAA. NOAA feels that the approach is workable and that it will contribute significantly to an efficient OTEC license application review process.

Issue No. 4: "Land-based" OTEC Facilities. Several commentors took the position that "land-based" OTEC facilities would be adequately addressed under State building and planning codes and that further Federal regulation of them was unnecessary. One commentor felt that "land-based" OTEC facilities were not within the ambit of the Act. The Coast Guard noted that existing U.S. documentation laws do not provide for "documenting" buildings.

The legislative history of the Act demonstrates Congressional intent that, "If an OTEC facility is built on land with warm and cold water pipes extending out into the ocean, the definition includes that portion of the warm and cold water pipes, and any other parts of the facility, located seaward of the highwater mark." (House of Representatives Committee on Merchant Marine and Fisheries report on H.R. 6154, H. Rept. 96-994, p. 40). Further, a basic purpose of the Act is to establish Federal jurisdiction over U.S. OTEC activities to assure legal protection of such activities from interference with the thermal resource necessary for their economic viability. For these reasons, NOAA is of the opinion that "landbased" OTEC facilities are subject to licensing under the Act, to the extent portions of the facility are located seaward of the highwater mark. In general, the licensing requirements are not intended to preempt State or local regulations which would apply to matters such as siting the shoreside portions of land-based OTEC facilities. The information on shoreside portions of an OTEC facility required by this rulemaking is necessary to enable the NOAA Administrator to prepare the Environmental Impact Statement required by section 107(e) of the Act, and should be of use to state and local governments as they assess the suitability of an OTEC facility proposal.

Issue No. 5: Adjacent Coastal States. NOAA asked for comment with respect to whether more detailed guidance on designation of "adjacent coastal states" under section 105(a)(2) of the Act during the OTEC license review process was needed or whether the guidance provided in the Act was sufficient. Most commentors felt that the statutory guidance was adequate and NOAA has accordingly adopted it in §§ 1001.330 (a) and (b) of the proposed regulations.

Issue No. 6: Opportunities for Public Participation. No significant comments have been received by NOAA on this issue. However, the CAR process discussed in *Issue No. 3* of this preamble is designed to assure early and informed

public participation in the OTEC license application review process. In addition, NOAA will attempt to provide its preliminary views on the acceptability of the license application at or before the first NOAA public hearing on the application is held under § 1001.340 of this rulemaking. This commitment, coupled with encouragement to other involved Federal agencies and departments to make their preliminary views available in advance of public hearings, as contained in § 1001.300 of this rulemaking, should ensure that public hearings on a specific license application provide the opportunity for more informed discussion of the application.

In an earlier effort to facilitate public participation in this rulemaking NOAA announced (45 FR 70475) the availability of limited funding to compensate participants in the rulemaking who met the eligibility criteria of NOAA regulations governing "Financial Compensation of Participants in Administrative Proceedings" (15 CFR Part 904). Due to budgetary constraints, those funds are no longer available.

Approval or Disapproval of an Application

Issue No. 7: "The National Interest." As part of the license application review process, the Act requires that NOAA determine whether the application is or is not "in the national interest and consistent with national security, and other national policy goals and objectives, including energy self-sufficiency and environmental quality." In the ANPR, NOAA noted that the Declaration of Policy in the Act, the Act's criteria for deciding among multiple applications for the same site, and the findings and conclusions in the Ocean Thermal Energy Conversion Research, Development, and Demonstration Act, Public Law 96-310, could be used as guidance in making the national interest determination. One commentor noted that the goals set out in Public Law 96-310 were demonstration goals subject to continued Federal funding for the technology development program conducted by the Department of Energy, and were thus inappropriate for use in making national interest determinations in a commercial OTEC licensing program. NOAA concurs in this view and will consider the decision criteria for multiple applications contained in section 102(i)(3) as well as the Declaration of Policy in the Act in making the national interest determination on individual OTEC license applications.

Issue No. 8: Multiple Applications for the Same Site. In the ANPR, NOAA solicited comments as to whether the guidance provided in section 102(i)(3) of the Act was sufficient for use in choosing between two or more OTEC applications at the same site. Most commentors expressed the opinion that the guidance in the Act was sufficient and NOAA has incorporated it into § 1001.480 of the proposed rules.

This issue also addressed the question of what criteria or factors NOAA should use in specifying the geographic bounds of the "application area" encompassing the site proposed in an application for an OTEC facility. Commentors proposed a variety of approaches including issuance in the licensing regulations of a specific calculational procedure by which NOAA would define the "application area." Because the potential impact of one OTEC facility on the operation of another OTEC facility is a complex issue highly dependent on the physical configuration and operational characteristics of the OTEC facility which is the subject of the application as well as the physical, chemical, and biological oceanographic conditions in the area of the proposed site, NOAA has not adopted the commentor's proposal.

In determining the "application area," NOAA must consider two projected impacts. The first is the impact of the applicant's proposed OTEC activities on the potential OTEC activities of others in the area of the proposed site. The other is the potential impact of other possible OTEC activities in the area of the proposed site on the OTEC activity proposed by the applicant. NOAA believes it must address both impact potentialities in designating the "application area." As noted earlier these impacts are highly technology- and site-specific. For that reason NOAA has incorporated a requirement into § 1001.260 of the proposed rules that the applicant provide an estimate of an appropriate "application area," along with the supporting scientific and environmental basis for it, as part of the license application. During the initial review of the application NOAA will evaluate the validity and reasonableness of the proposed application area using the best scientific and environmental judgment available and will specify a designated "application area" in the notice of receipt of a complete application provided for in § 1001.290 of the proposed rules.

General Requirements Applicable to Licensees

Issue No. 9: Diligence. The Act requires NOAA to issue regulations requiring a licensee to pursue diligently the construction and operation of the OTEC facility or plantship to which the license applies. NOAA invited comment on appropriate diligence requirements and there was general agreement among commentors that any such requirements should take account of the developmental nature of the OTEC industry, at least for the first license applicants. One commentor further suggested that NOAA refrain from enforcing any diligence requirements against a licensee unless a third party intervened claiming lack of diligence on the part of the licensee. NOAA has rejected that approach as inconsistent with NOAA's role as "trustee" for the thermal resource.

Several commentors proposed that NOAA require an applicant to provide the schedule for construction, deployment, and operation of the proposed OTEC facility or plantship and that NOAA use that schedule as the basis for establishing diligence requirements for the licensee. NOAA has adopted that approach in this NPR subject to NOAA review of the schedule for reasonableness during the application process. The final schedule agreed to by NOAA, along with appropriate provisions for dealing with unforeseeable delays, would then form the basis for diligence conditions in the OTEC license, as provided for in § 1001.520(h) of the proposed rules.

Issue No. 10: Reports and Records. This issue addresses the question of what reports and records NOAA should require of a licensee under § 112 of the Act. All commentors concurred in NOAA's initial view that such requirements should be minimized. In keeping with that approach, NOAA has reduced reporting requirements to a minimum consistent with the Act. Section 1001.520(i) of this notice requires the licensee to report such environmental monitoring information as the Administrator finds to be necessary and appropriate to assess environmental impacts of the licensee's OTEC activities. That section also requires periodic reporting of normal business records regarding electricity or product production as part of the license condition related to diligence. License conditions related to compliance with Federal law other than the Act (addressed in § 1001.520(1) of the proposed rules), may also involve reporting requirements, for instance in relation to a National Pollutant Discharge Elimination System (NPDES) permit issued for the facility or plantship under authority of the Clean Water Act.

Issue No. 11: Removal of Components. Section 101(d)(3) of the Act requires the NOAA Administrator to establish bonding requirements or other assurances to assure that a licensee properly removes or otherwise disposes of OTEC facility or plantship components upon termination, revocation, relinquishment, or surrender of a license. The one comment received on this issue encouraged the NOAA Administrator to retain the flexibility in the Act regarding imposition of bonding or other assurances regarding removal or disposal of components. This suggestion has been adopted and is incorporated in § 1001.520(b) of the proposed legislation.

Issue No. 12: Confidentiality. No commentor felt that NOAA should establish any criteria or procedures concerning confidentiality of certain types of trade secrets or commercial or financial information additional to those set out in section 112 of the Act and other existing statutes and regulations, including NOAA's general "Public Information" and Freedom of Information Act regulations. NOAA has adopted that approach and it is set out in § 1001.100 of the proposed rules.

Issue No. 13: Site Evaluation and Preconstruction Testing. Section 102(b) of the Act authorizes the NOAA Administrator, if he determines it to be necessary, to issue regulations related to site evaluation and preconstruction testing at potential OTEC facility or plantship locations. Those regulations would apply to initial activities conducted prior to issuance of a license by NOAA. Commentors who addressed this issue felt that minimal or no regulation by NOAA of initial site evaluation and preconstruction testing activities was the appropriate approach. NOAA has also consulted the Coast Guard and the Department of the Interior on this issue and been advised that they see no need for such regulation at this time. It should be noted that site preparation and OTEC construction activities conducted in the ocean by the recipient of a NOAA OTEC license can be made subject to regulation under the Act by means of license terms and conditions. For these reasons, NOAA has determined that site evaluation and preconstruction testing regulations are not necessary at this time. However, Subpart H of Part 1001 has been reserved for use in the event such regulations become necessary in the future.

Issue No. 14: Environmental Protection Measures. NOAA raised the issue in the ANPR of the types of environmental protection measures which should be applied by regulation, or as license conditions, to operation of OTEC facilities and plantships. Mention was made of the question of how any such measures should relate to the requirements of the Environmental Protection Agency under the National Pollutant Discharge Elimination System (NPDES). The possibility of imposing generic or "across the board" requirements for all OTEC facilities and plantships, such as to bury submarine cables and pipelines, to mix hot and cold ocean water discharges, or to discharge at a specified depth below the ocean surface, was suggested. A number of commentors noted that existing environmental statutes and regulations should be adequate to ensure reasonable protection of the environment from significant adverse consequences resulting from OTEC operations. Other commentors noted that additional information on environmental effects of OTEC operations was necessary before meaningful environmental protection measures could be developed for inclusion as specific OTEC license conditions.

NOAA generally concurs in both of these views and has analyzed the potential environmental impacts of OTEC operations, and the present state of information regarding them, in the Environmental Impact Statement (EIS) being prepared on development of these OTEC licensing regulations. The preliminary conclusion of that effort, as reflected in the draft EIS, is that the net environmental impact due to commercial development of OTEC is expected to be minimal compared to the impact of fossil and nuclear fueled power production. However, there are uncertainties which must be assessed associated with redistribution of large volumes of ocean water during OTEC operations.

NOAA is also developing the OTEC Environmental Effects Assessment Program Plan required by Section 107 of the Act. That activity, and the EIS work to date, confirm that existing environmental protection statutes and regulations provide a relatively comprehensive framework for controlling OTEC environmental effects. In particular, EPA's NPDES program, and the Ocean Discharge Criteria established by EPA under Section 403(c) of the Clean Water Act, provide a rational set of criteria for evaluating OTEC environmental impacts and establishing an appropriate mix of discharge conditions and monitoring requirements to assure that no unreasonable degradation of the marine environment occurs as a result of OTEC operations. However, NOAA has concluded that the complexities of the interaction between the proposed OTEC facility or plantship and its surrounding environment, including other potential OTEC activities, require that the analysis and establishment of environmental protection measures for OTEC operations be done on a case-by-case basis. For these reasons, the proposed rules require, in § 1001.260, that an applicant submit with the application to NOAA the environmental information which EPA has specified in its regulations implementing Section 403(c) of the Clean Water Act, along with a description of any studies or evaluations used in developing the information. Section 1001.260 of these regulations also requires the applicant to submit its assessment of the area of the marine environment in which the proposed OTEC operation would impact, or be impacted by, the operation of other OTEC facilities or plantships. To assist license applicants in providing the environmental information, NOAA is preparing a Technical Support Document (TSD). The TSD will provide guidance on the types of specific information and analyses an applicant might wish to provide to satisfy the requirements of § 1001.260. NOAA will make the TSD available for public comment and will have a final version available for use by potential applicants when final regulations are issued under the Act.

NOAA, in close consultation with the EPA, will use the environmental information provided by the applicant as a basis for determining the potential environmental impacts of the proposed OTEC operation, and for developing appropriate site-specific technological and monitoring requirements for incorporation as license conditions pursuant to § 1001.520 of the proposed rules. The site-specific EIS on each license application required by Section 107 of the Act will provide a mechanism for informed public involvement in this process.

Issue No. 15: Environmental Monitoring. NOAA's initial view on this issue, as expressed in the ANPR, was that a licensee should be required to implement a monitoring program sufficient to demonstrate compliance with applicable water quality standards, to provide for early detection of potential releases of pollutants from OTEC operations, and to monitor the effects of the OTEC discharge plume. Most commentors concurred in this view. NOAA has concluded it is a practical approach to developing OTEC

license conditions related to environmental monitoring, and has required, in § 1001.260 of these proposed regulations, that the applicant provide a proposed monitoring program with his application. Review of that proposal will form a part of the process discussed in *Issue No. 14* above for developing site-specific environmental protection measures.

Issue No. 16: Criteria for Immediate Suspension. NOAA invited comment in the ANPR on whether or not the criteria for immediate suspension of OTEC construction or operation activities provided in § 111(b) of the Act were sufficient. Those commentors who addressed this issue expressed the opinion that the statutory guidance was sufficient. NOAA concurs in this opinion and will use the Section 111(b) criteria in any immediate suspension action.

Issue No. 17: Prevention of Interference with Other Ocean Uses, and Other Nations. In the ANPR, NOAA raised the issue of what types of OTEC-related potential interferences with other legitimate uses of the ocean and with other nations' territorial seas of national resource jurisdiction zones NOAA should seek to prevent. Specific issues noted included the types of other ocean uses that should be specifically recognized, the criteria of standards to be used to determine significant interference, and the specific methods and/or standards which should be used to reduce or prevent interference. Most commentors stated the view that significant interference by OTEC facilities or plantships with other ocean uses was a highly complex factual issue which would not become a major problem, other than on a site-specific basis, until the OTEC industry had developed to a considerable extent. NOAA concurs in this view and adopts the position that the site-specific OTEC licensing process, including EIS preparation as required by the Act, provides an adequate forum for raising and resolving potential OTEC interference issues, at least for the near term development of the commercial OTEC industry. Accordingly, § 1001.520(d) of the proposed rules provides for inclusion of OTEC license conditions on a case-by-case basis, as necessary to prevent such interference. In addition, Subpart I of Part 1001 has been reserved for use in the event regulations specifying procedures for mediating disputes related to interference between OTEC facilities or plantships become necessary in the future.

Issue No. 18: Upper Limit on Number of OTEC Facilities and Plantships. NOAA noted in the ANPR that section 101(c)(14) of the Act provides for establishment of an upper limit on the number or total capacity of OTEC facilities and plantships, either overall or in a specific geographic area, if the NOAA Administrator determines that such a limit is necessary. NOAA's initial view was that sufficient information was not now available to support establishment of such a limit. All commentors who addressed this issue concurred in the initial NOAA view. Accordingly, this NPR does not propose any upper limit and NOAA does not contemplate establishing one in the near future. However, Subpart G of Part 1001 has been reserved for use in the event regulations establishing such a limit become necessary in the future.

Issue No. 19: Compliance Orders. NOAA requested views on criteria which should be applied under section 302(a)(2) of the Act to govern issuance of compliance orders. No commentor chose to address this issue substantively. However, one commenter noted that the language of section 302 provided sufficient guidance and another commentor indicated a desire for NOAA to issue procecures for dealing with compliance orders. NOAA has done so in § 1001.620 of *Subpart F—Enforcement Procedures* of the proposed rules.

Issue No. 20: Suspension, Revocation, or Termination of a License. No commentor substantively addressed this issue or proposed suspension, revocation, or termination criteria other than those specified in the Act. NOAA has determined that the guidance in the Act, coupled with license terms and conditions established under § 1001.520 of the proposed rules generally would provide sufficient guidance to a licensee as to what situations would warrant institution of license suspension, revocation or termination proceedings. *Subpart F—Enforcement Procedures* of the proposed rules sets out procedures for such proceedings.

VII. Organization of the Proposed Regulations

NOAA has attempted to organize these proposed regulations so that a potential applicant can readily find the information relevant to making application for an OTEC license. The provisions of the proposed regulations have been grouped into subparts, as follows, in an effort to consolidate information on procedures and information requirements to assist a potential applicant in orderly development of the application materials.

Subpart A—Definitions and General Program Requirements

This subpart describes the purposes and scope of 15 CFR Part 1001, provides definitions of terms used throughout the proposed regulations and specifies who must (must who is not required to) apply for an OTEC license. The procedures for application, amendment of an application, and withdrawal or termination of a license applications are given. The application fee and method of payment are specified.

Subpart B—Information To Be Submitted With Application

This subpart specifies what information the applicant must provide with the OTEC license application. The required information relates to the siting, design, construction and deployment of the proposed OTEC facility or plantship. Information on the financial situation and organization of the applicant is specified. Environmental information necessary to evaluate potential impacts of the proposed OTEC operation is prescribed. Information necessary to assure that the applicant's proposal complies with Federal laws and regulations other than the Act is also specified.

Subpart C—License Application Review Procedures

This subpart sets out the steps in the OTEC application review process which are mandated by the Act. The steps in the voluntary Consolidated Application Review (CAR) process which provides the applicant with the option of requesting a more integrated, coordinated review process than the minimum provided for in the Act are also prescribed.

Subpart D—Criteria for Approval or Denial of Application and Establishment of License Terms and Conditions; Renewal, Transfer, Suspension, Revocation and Termination

The subpart sets out the criteria which the NOAA Administrator will use in reaching the decision to issue or deny a particular OTEC license application. The criteria the Administrator will use for deciding among multiple applications for the same OTEC site area are also prescribed. Criteria for establishing license terms and conditions are set out. This Subpart also provides for transfer and renewal of licenses and prescribes suspension, revocation, and termination procedures.

Subpart E—Formal Hearing Procedures

Under certain circumstances a formal ajudicatory hearing on the record may become necessary as part of the OTEC licensing process. Such formal hearings are also necessary as part of the OTEC enforcement program. This subpart sets forth the procedures to be followed in such hearings.

Subpart F—Enforcement Procedures

This subpart prescribes the administrative procedures which will be followed in OTEC enforcement proceedings including those related to license suspension, termination, or revocation proceedings; to issuance of compliance orders; and to assessment of civil panalties in connection with enforcement activities. This subpart also establishes rules concerning placements of authorized Federal observers on and in OTEC facilities and plantships, and describes how a person wishing to sue an alleged violator or the Administrator must give advance notice of the intended lawsuits.

VIII. Other Actions Associated With This NPR

Subpart A—Classification Under Executive Order 12291 of February 17, 1981

The NOAA Administrator considers the regulations proposed in this NPR to be major with respect to the criteria of Executive Order 12291 (EO 12291) of February 17, 1981, because the provisions of the NPR will foster and goven development of the United States commerical OTEC industry. However, the Administrator has determined that it is impracticable for NOAA to adhere completely to the procedures of EO 12291 because to do so would conflict with deadlines imposed by the OTEC Act on issuance of these regulations.

NOAA has prepared and transmitted to the Office of Management and Budget (OMB) a preliminary Regulatory Impact Analysis as specified by Section 3 of EO 12291 and will prepare a Final Regulatory Impact Analysis, which will be transmitted, along with the final rule, to the OMB Director at least 30 days prior to the publication of the final rule. However, Section 102(a) of the OTEC Act imposes a deadline of August 3, 1981 for issuance of final OTEC licensing regulations. Compliance by the Administrator with this deadline and the requirements of the Administrative Procedures Act make it impracticable to provide for a 60 day review of the Preliminary Regulatory Analysis by OMB prior to publication of this NPR. In order to allow for a 60 day OMB review period it would have been necessary to commence the review on February 2, 1981. Therefore, the procedures outlined in Section 8(a)(2) of EO 12291 related to exemptions from its requirements apply to this rulemaking. NOAA has reported to the OMB Director its intention to satisfy EO 12291 in this manner to the maximum extent practicable.

This approach to compliance supports the underlying objectives of EO 12291 and will allow NOAA to meet its statutory obligations in a timely fashion. To delay would unnecessarily restrict the development of the private OTEC industry, which requires the legal regime proposed in this rulemaking as a prerequisite to aggressive development of commercial OTEC technology.

B. Regulatory Impact Analysis

While NOAA finds that, due to impracticability, it cannot completely adhere to the provisions of EO 12291 regarding transmittal of a draft Regulatory Impact Analysis to OMB 60 days prior to publication of the NPR in the **Federal Register**, NOAA has prepared a draft Regulatory Impact Analysis. This analysis, which examines the potential economic impact of the proposed regulations, is available to all interested parties. The analysis examines the various alternatives NOAA considered in preparing the regulations, considers the economic benefit and cost implications of the alternatives, and explains NOAA's reasons for making the choices reflected in this NPR. The draft analysis has been done in such a way as to include an initial regulatory flexibility analysis in compliance with the Regulatory Flexibility Act, Public Law 96-354. The major conclusions of the draft Regulatory Impact Analysis are summarized in sections V (BACKGROUND) and VI.A (GENERAL REGULATORY APPROACH) of the preamble to this NPR. Copies of the draft analysis may be obtained by writing to the Director, NOAA Office of Ocean Minerals and Energy, at the address specified in the ADDRESSES section of this rulemaking.

C. Summary of Initial Regulatory Flexibility Analysis

The major conclusions of NOAA's Initial Regulatory Flexibility Analysis are summarized in sections V (BACKGROUND) and VI.A. (GENERAL REGULATORY APPROACH) of this preamble. Because of the large size and cost of commercial OTEC projects, the primary involvement of small business concerns in the OTEC industry is expected to be as contractors or subcontractors, rather than as sole owners or operators of OTEC facilities or plantships. Only one license, obtained by the owner, is required. The general regulatory approach selected by NOAA for these proposed regulations was designed to provide the greatest flexibility for, and to minimize any adverse economic impact on, any entity—large or small—which may be involved in OTEC development. The proposed regulations do not impose any reporting, recordkeeping, or other compliance requirements on small governmental jurisdictions or small organizations. Copies of the combined Initial Regulatory Flexibility Analysis and Preliminary Regulatory Impact Analysis may be obtained by writing to the Director, NOAA Office of Ocean Minerals and Energy, at the address specified, in the ADDRESSES section of this rulemaking.

D. Paper Reduction Act of 1980 (Public Law 96-511)

NOAA anticipates a maximum of 3 OTEC license applications in the first year of the program. Because of the limited number of persons initially subject to these proposed regulations, NOAA believes they do not contain a "collection of information" request within the meaning of 44 U.S.C. §§ 3502(4) and 3502(11). The final regulations will contain the statements referred to in 44 U.S.C. §§ 3506 and 3512, as applicable.

E. Environmental Impact Statement

The NOAA Administrator considers issuance of final regulations implementing the Act to be a major Federal action significantly affecting the quality of the human environment. Accordingly, NOAA has prepared a draft Environmental Impact Statement (DEIS) under Section 102(2)(C) of the National Environmental Policy Act of 1969 as part of this rulemaking. The DEIS has been filed with the Environmental Protection Agency and is available for public comment. Copies may be obtained by writing to the Director, NOAA Office of Ocean Minerals and Energy, at the address specified in the ADDRESS section of this rulemaking.

F. 45-Day Public Comment Period

The public comment period on this rulemaking is 45 days, rather than the customary 60 day period. This is necessary to assure meeting the August 3, 1981, deadline the OTEC Act establishes for issuance of final licensing regulations while providing 30 days for OMB review of them under EO 12291. To minimize the impact of this shortened comment period, NOAA is

providing copies of this rulemaking directly to all persons who responded to the OTEC ANPR.

For the reasons set out in the preamble, it is proposed to amend Title 15 of the Code of Federal Regulations by adding a new *Part 1001, Ocean Thermal Energy Conversion Licensing Program.* The text of the proposed rules follows.

Dated: March 25, 1981.

James P. Walsh,

Signed: *Acting Administrator, National Oceanic and Atmospheric Administration.*

PART 1001—OCEAN THERMAL ENERGY CONVERSION LICENSING PROGRAM

Subpart A—Definitions and General Program Requirements

Subpart B—Information to Be Submitted With Application

Subpart C—License Application Review Procedures

Subpart D—Criteria for Approval or Denial of Application and Establishment of License Terms and Conditions; Renewal, Transfer, Suspension, Revocation, Termination, Relinquishment, and Surrender

Subpart E—Formal Hearing Procedures

Subpart F—Enforcement Procedures

Subpart G—Upper Limits on the Number or Total Capacity of OTEC Facilities and Plantships To Be Licensed Under This Part [Reserved]

Subpart H—OTEC Site Evaluation and Preconstruction Testing Regulations [Reserved]

Subpart I—Procedures for Mediation of Disputes Among Licensees Regarding Interference Between OTEC Facilities or Plantships [Reserved]

Authority: Ocean Thermal Energy Conversion Act of 1980, Pub. L. 96-320, 94 Stat. 974 [42 U.S.C. 9101, *et seq.*]

Subpart A—General Program Requirements and Definitions

§ 1001.10 What are the Ocean Thermal Energy Conversion Program regulations?

(a) *Coverage.* These regulations implement NOAA's responsibilities under the Ocean Thermal Energy Conversion Act of 1980. The regulations provide the procedures and information necessary to apply to NOAA for a license for the ownership, construction, and operation of ocean thermal energy conversion (OTEC) facilities and plantships. They also establish a voluntary consolidated process for review of license applications by NOAA and other Federal, State, and local government entities; state the criteria which will be used for issuance or denial of a license; prescribe criteria for establishing license terms and conditions; prescribe procedures for enforcement of the Act and this Part, and for renewal, transfer, suspension, revocation, termination, relinquishment, or surrender of a license.

§ 1001.20 Purpose of the OTEC licensing regulations.

The regulations in this Part carry out the purposes of the Act, which include:

(a) Authorize and regulate the construction, location, ownership, and operation of OTEC facilities connected to the United States by pipeline or cable, or located in the territorial sea of the United States, consistent with the Convention on the High Seas, and general principles of international law;

(b) Authorize and regulate the construction, location, ownership, and operation of OTEC plantships documented under the laws of the United States, consistent with the Convention on the High Seas and general principles of international law;

(c) Authorize and regulate the construction, location, ownership, and operation of OTEC plantships by United States citizens, and consistent with the Convention on the High Seas and general principles of international law;

(d) Establish a legal regime which will permit and encourage the development

of OTEC as a commercial energy technology;

(e) Provide for the protection of the marine and coastal environment, and consideration of the interests of ocean users, to prevent or minimize any adverse impact which might occur as a consequence of the development of such OTEC facilities or plantships;

(f) Protect the interests of the United States in the location, construction, and operation of OTEC facilities and plantships; and

(g) Protect the rights and responsibilities of adjacent coastal States in ensuring that Federal actions are consistent with approved State coastal zone management programs and other applicable State and local laws.

§ 1001.30 Scope of the OTEC licensing regulations.

(a) *Subpart A* of Part 1001 contains definitions and basic procedures related to any application for a license for an OTEC facility or plantship, including application fees and procedures for termination or withdrawal of an application.

(b) *Subpart B* of Part 1001 prescribes the information which must be included in a license application to enable the Administrator to make the determinations required by the Act as conditions precedent to issuance or denial of an OTEC license.

(c) *Subpart C* of Part 1001 prescribes license application review procedures including the Consolidated Application Review (CAR) process which will be used by NOAA and, on a voluntary basis, by the applicant and those other Federal, State, and local government entities with authority over any aspect of the OTEC operations proposed in an application.

(d) *Subpart D* of Part 1001 contains the criteria upon which the Administrator will base the decision to issue or deny an OTEC license, including the criteria which will be used to decide among multiple applications for the same designated application area. This Subpart also prescribes criteria for establishing license terms and conditions, and for renewal, transfer, suspension, revocation, and termination of a license.

(e) *Subpart E* of Part 1001 prescribes the procedures which will be used by the Administrator to conduct any formal hearings under this Part.

(f) *Subpart F* of Part 1001 sets forth the administrative procedures which will be used for enforcement proceedings under the Act and this Part.

§ 1001.40 Definitions.

For the purposes of this Part, the following terms have the following meanings:

"Act" means the Ocean Thermal Energy Conversion Act of 1980 (Public Law 96–320; 94 Stat. 974; 42 U.S.C. 9101 *et seq.*);

"Adjacent coastal State" means any coastal State which is required to be designated as such by § 1001.330(a) of this Part or is designated as such by the Administrator in accordance with § 1001.330(b) of this Part;

"Administrator" means the Administrator of NOAA or a person to whom appropriate authority has been delegated;

"Affiliate" means any person, (A) in which the applicant or licensee owns or controls more than 5% interest, (B) which owns or controls more than 5% interest in the applicant or licensee, or (C) which is under common ownership or control with the applicant or licensee;

"Antitrust laws" include the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, and sections 73 and 74 of the Act of August 27, 1894, as amended;

"Application" means any application submitted under this Part, (A) for issuance of a license for the ownership, construction, or operation of an OTEC facility or plantship; (B) for transfer or renewal of any such license; or (C) for any substantial change in any of the terms and conditions of any such license;

"CAR" means the Consolidated Application Review process described in subpart C of this Part;

"Cleanup" means removal of pollutants from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, public and private property, shorelines, and beaches;

"Coastal State" means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

"Construction" means any activities conducted at sea to supervise, inspect, actually build, or perform other functions incidental to the building, repairing, or expanding of an OTEC facility or plantship or any of its components, including but not limited to, piledriving, emplacement of mooring devices, emplacement of cables and pipelines, and deployment of the cold water pipe, and alterations, modifications, or additions to an OTEC facility or plantship;

"Controlling interest" means a direct or indirect legal or beneficial interest in or influence over another person arising through ownership of capital stock, interlocking directorates or officers, contractual relations, or other similar means, which subtantially affect the independent business behavior of such person;

"Designated application area" means the projected area or areas in which the OTEC activities of the applicant might impact so as to significantly degrade the operation of another OTEC facility or plantship, and in which the operation of another OTEC facility or plantship might impact so as to significantly degrade the OTEC operation proposed by the applicant;

"EIS" means an environmental impact statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

"Facility" means an OTEC facility;

"Governor" means the Governor of a State or the person designated by law to exercise the powers granted to the Governor pursuant to this Part;

"High seas" means that part of the oceans lying seaward of the territorial sea of the United States and outside the territorial sea, as recognized by the United States, of any other nation;

"Licensee" means the holder of a valid license for the ownership, construction, or operation of an OTEC facility or plantship that was issued, transferred, or renewed pursuant to this Part;

"Major component" means any component of an OTEC facility or plantship with a value exceeding $500,000;

"NOAA" means the National Oceanic and Atmospheric Administration;

"OTEC" means ocean thermal energy conversion;

"OTEC facility" means any facility which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, fresh water, or product to shore, and all other associated equipment and appurtenances of such facility, to the extent they are located seaward of the highwater mark. If part of the OTEC facility is built on land, the definition includes that portion of the warm water intake structure, cold water intake

structure, effluent discharge structure, and any other parts of the facility, located seaward of the highwater mark;

"OTEC plantship" means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water, to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any equipment used to transfer such product to other vessels for transportation to users, and all other associated equipment and appurtenances of such vessel;

"Person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, or other entity organized or existing under the laws of any nation, and any Federal, State, local or foreign government or any entity of any such government;

"Plantship" means an OTEC plantship;

"Pollutant" means (A) oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with wastes; (B) dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water; and (C) hazardous substances as that term is defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510);

"Pollutant discharge" means, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants;

"Significant contract" means any contract in an amount exceeding five-hundred thousand dollars ($500,000);

"State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession over which the United States has jurisdiction;

"Test platform" means any floating or moored platform, barge, ship, or other vessel which is designed for limited-scale, at-sea operation in order to test or evaluate the operation of components or all of an OTEC system and which will not operate as an OTEC facility or plantship after the conclusion of such tests or evaluation; and

"United States citizen" means (A) any individual who is a citizen of the United States by law, birth, or naturalization; (B) any Federal, State, or local government in the United States, or any entity of any such government; or (C) any corporation, partnership, association, or other entity, organized or existing under the laws of the United States, or of any State, which has as its president or other executive officer and as its chairmen of the board of directors, or holder of similar office, an individual who is a United States citizen and which has no more of its directors who are not United States citizens than constitute a minority of the number required for a quorum necessary to conduct the business of the board.

§ 1001.50 Who must apply for an OTEC license? (and who does not need one).

(a) *OTEC facilities.* No person may engage in the ownership, construction, or operation of an OTEC facility which is:

(1) Documented under the laws of the United States; or

(2) Located in the territorial sea of the United States; or

(3) Connected to any State by pipeline or cable; except in accordance with a license issued pursuant to this Part.

(b) *OTEC plantships.* No citizen of the United States may engage in the ownership, construction or operation of an OTEC plantship except in accordance with a license issued pursuant to this Part, or in accordance with a license issued by a foreign nation whose licenses are found by the Administrator, after consultation with the Secretary of State, to be compatible with licenses issued pursuant to this Part.

(c) *Activities which do not require a license.* The requirements of this section to obtain an OTEC license do not apply to the following activities:

(1) Ownership, construction, or operation of any ocean thermal energy conversion facility or plantship which the Secretary of Energy has designated in writing as a demonstration project for the development of alternative energy sources for the United States which is conducted by, participated in, or approved by the Department of Energy, for so long as the Secretary of Energy maintains such designation in effect. The Secretary of Energy, after consultation with the Administrator, will require such demonstration projects to abide by as many of the substantive requirements of Title I of the Act as he deems to be practicable without damaging the nature of or unduly delaying such projects;

(2) Ownership, construction, or operation of any test platform which will not operate as an OTEC facility or plantship after conclusion of the testing period;

(3) OTEC construction activities which are conducted on land or in a shipyard; and

(4) Manufacture or supplying of components for an OTEC facility or plantship unless such activity takes place seaward of the highwater mark.

§ 1001.60 Federal applications.

The application filed with the Administrator constitutes an application for all Federal authorizations required for ownership, construction, and operation of an OTEC facility or plantship, except for authorizations required by documentation, inspection, certification, construction, and manning laws and regulations administered by the Secretary of the department in which the Coast Guard is operating and application to the Maritime Administration for financial assistance under Title XI of the Merchant Marine Act of 1936. Procedures for review of the application by Federal agencies and departments (other than the Coast Guard) are set forth in Subpart C of this Part.

§ 1001.70 Pre-application consultation.

(a) *Consultation.* If requested, the Administrator will consult with any prospective applicant to assist the applicant in properly preparing the application.

(b) *Request.* A prospective applicant who wishes a pre-application consultation in accordance with this section should make such request in writing to the Director, Office of Ocean Minerals and Energy, NOAA, Room 410, Page 1 Building, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235.

§ 1001.80 How to apply for an OTEC license.

(a) *Form.* Each application must be in writing and must include the information specified in Subpart B of this Part in the order specified.

(b) *Number of copies.* 45 copies of each application must be submitted.

(c) *Where to file the application and all related documents.* Applications and all related documents shall be filed with the Administrator of NOAA, in care of the Director, NOAA Office of Ocean Minerals and Energy, Room 410, Page Building #1, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235.

(d) *Signature.* (1) *Who.* Each application for an OTEC license submitted under this Part shall be signed as follows:

(i) *For a corporation:* by a principal executive officer of at least the level of vice-president;

(ii) *For a partnership or sole proprietorship:* by a general partner or the proprietor, respectively;

(iii) *For a Federal, State, or local government in the United States, or any entity of any such government:* by either a principal executive officer or ranking elected official; or

(iv) *For an association or other entity:* by a principal executive officer.

(2) *Verification.* Each application shall contain a statement at the end of the application subscribed and sworn to before a notary public that the individual who signed the application has read it and that its contents are true to the individual's best knowledge and belief.

§ 1001.90 Provision of additional information.

(a) *Supplemental documents.* The Administrator may require, by written notice to the applicant, that the applicant file as a supplement to the application any analysis, explanation or detailing of information in the application or any other information determined by the Administrator to be required to review or process the application.

(b) *Other Federal and State requests.* Any Federal or adjacent coastal State department or agency may file with the Administrator a request or recommendation for further information related to its authorization(s) required for ownership, construction, or operation of the proposed OTEC facility or plantship. Requests and recommendations received by the Administrator within 30 days after notice of the initial application has been published in the **Federal Register** will be fully considered before any final determination is made to require additional information of the applicant. Requests and recommendations must contain a brief statement of the need for additional information, including the nature of any safety, health, environmental, economic, or other legitimate concerns.

(c) *Time limits.* In exercising the authority to require supplemental information under this section, the Administrator may fix a reasonable time by which an applicant must meet the requirements. If an application states that required information is not yet available but will be furnished at a later date, the Administrator may specify a reasonable time by which the information must be provided. If any requirement is not met by a time fixed in accordance with this paragraph, the Administrator shall determine whether compliance with the requirement is material to processing of the application within the time deadlines prescribed in Subpart C of this Part. If the Administrator determines that an unmet requirement for supplemental information is material, the Administrator may disapprove the application or suspend the application pending a determination that processing can be resumed. The period of any suspension shall not be counted in determining the dates of the deadlines prescribed in Subpart C of this Part.

(d) *Copies.* 45 copies of additional information required under this section will be provided unless the Administrator determines otherwise.

§ 1001.100 Confidentiality of information.

(a) *Purpose.* This section provides a procedure by which persons submitting information pursuant to this Part may request that certain information not be subject to public disclosure.

(b) *Written requests for confidential treatment.*

(1) Any person who submits any information pursuant to this Part, which information is considered by him to be a trade secret, or commercial or financial information which is privileged or confidential, may request that the information be afforded confidential treatment.

(2) Requests for confidential treatment of information must be in writing and must be submitted at the time of submission of the information. Information subject to the request must be segregated from information for which confidential treatment is not being requested, and each page (or segregable portion of each page) subject to the request must be clearly marked with the legend "Confidential Treatment Requested." Where this marking proves impracticable, a cover sheet containing the legend must be securely attached to the compilation of information.

(c) *Substantiation of request for confidential treatment.* (1) Any request for confidential treatment must include a statement of the basis for believing that the information is deserving of confidential treatment which addresses the issues relevant to a determination whether the information is a trade secret, or commercial or financial information which is privileged or confidential. Such statement itself will be treated as confidential to the extent permitted by applicable law.

(2) Issues addressed should include:

(i) The commercial or financial nature of the information;

(ii) The nature of the competitive advantage enjoyed as a result of possession of the information;

(iii) The nature of the competitive harm which would result from public disclosure of the information;

(iv) The extent to which the information has been disseminated to employees and contractors of the person submitting the information;

(v) The extent to which persons other than the person submitting the information possess, or have access to, the same information; and

(vi) The nature of the measures which have been and are being taken to protect the information from disclosure.

(d) *Requests for disclosure of trade secrets, privileged, or confidential information.* Any request for disclosure of information submitted, reported, or collected pursuant to this Part shall be made in accordance with the requirements of 15 CFR Part 903. Upon receipt of a request for disclosure, the officer authorized in 15 CFR 903.11 to make initial denials of requests for records shall determine, in consultation with the NOAA Office of General Counsel, whether confidential treatment is warranted. If the officer determines that confidential treatment is not warranted, the officer shall promptly notify the person requesting confidential treatment. Except as allowed under paragraph (e)(1)(ii) of this section, no information subject to a request for confidential treatment shall be released until the expiration of 10 calendar days from the date of issuance of such notice. In all other respects, procedures for handling requests for records containing information submitted, reported, or collected pursuant to this Part shall be in accordance with 15 CFR Part 903.

(e) *Special limitations on disclosure of certain information.* Any information submitted to, reported to, or collected by the Administrator under this Part which is exempt from disclosure pursuant to section 552(b)(4) of title 5, United States Code (relating to trade secrets and confidential commercial and financial information), will not:

(1) Be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has:

(i) Determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

(ii) Notified the person who provided the information 10 calendar days before the disclosure is to be made, unless the delay resulting from such notice would

be detrimental to the public health or safety or the environment, or

(2) Be otherwise disclosed except:

(i)(A) To other Federal and adjacent coastal State government departments and agencies for official use,

(B) To any committee of the Congress of appropriate jurisdiction, or

(C) Pursuant to court order, and

(ii) When the Administrator has taken appropriate steps to inform the recipient of the confidential nature of the information.

§ 1001.110 Amendment of an application.

(a) *Requirement to amend.* If information in an application becomes materially inaccurate or incomplete after it is filed but before the license application proceeding is terminated, the applicant must promptly file an amendment furnishing the corrected or additional information. Forty-five copies of the amendment must be submitted to the Administrator when the revisions are filed.

(b) *Effect of amendment.* If the administrator determines that any amendment constitutes a major and substantial change to the applicant's original proposal, the Administrator may:

(1) Suspend the time deadlines prescribed in Subpart C of this Part for processing of an application pending review of the amendment; or

(2) Require the applicant to commence a new license application proceeding.

§ 1001.120 Termination of processing and withdrawal of an application.

(a) An applicant may withdraw an application at any time before the license application proceeding is terminated by delivering or mailing written notice of withdrawal to the Administrator.

(b) The Administrator will terminate a proceeding if:

(1) All applications are withdrawn before the decision approving or denying them is issued; or

(2) The applicant after written notice by the Administrator pursuant to § 1001.90 of this Part does not provide adequate further information to complete the application within the time fixed in the written notice, and the Administrator elects to disapprove the application under § 1001.90(c) of this Part.

§ 1001.130 Application Fee.

(a) *Schedule of payment.* The application fee must be submitted to NOAA as follows:

(1) A nonrefundable payment of one-hundred thousand dollars ($100,000.00) must be submitted with each application for issuance of a license.

(2) An additional payment of one-hundred thousand dollars ($100,000.00) must be submitted not later than the date of the first public hearing held by NOAA on the license application in accordance with § 1001.340 of this Part.

(3) A final payment of fifty-thousand dollars ($50,000.00) must be submitted not later than 45 days after notice of completion of public hearings on the application is published in the **Federal Register** in accordance with § 1001.360 of this Part.

(b) *Effect of withdrawal or termination of application.* Withdrawal of the application by the applicant or termination of the application proceedings by the Administrator will reduce the application fee due to NOAA as follows:

(1) If the application is withdrawn or terminated prior to publication in the **Federal Register** of notice of receipt of an application which appears to be complete in accordance with § 1001.290 of this Part, the applicant will not be liable for the additional payment of one-hundred thousand dollars ($100,000.00).

(2) If the application is withdrawn or terminated before the date of the first public hearing held by NOAA on the application in accordance with § 1001.340 of this Part, the applicant will not be liable for the final payment of fifty-thousand dollars ($50,000.00).

(c) *Payment.* The fees assessed under this section must be made payable to the "National Oceanic and Atmospheric Administration, U.S. Department of Commerce."

§ 1001.140 Clerk, docket, and record of application proceeding.

(a) The mailing address for the clerk in each license application proceeding is: OTEC Docket Clerk, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Room 410, Page Building No. 1, 2001 Wisconsin Ave. NW.; Washington, D.C. 20235.

(b) The clerk will maintain a docket and the record for each license application proceeding. The docket will list each document in the record. The record will contain all documents filed or issued in the proceeding that the clerk has received and any other documents in the proceeding that are listed on the docket in accordance with this Part.

(c) Comments submitted by Federal agencies and departments on each licensing proceeding will be listed on the docket when they are received. The draft and final environmental impact statements prepared in accordance with § 1001.310 of this Part will be listed on the docket when they are transmitted to the Environmental Protection Agency.

§ 1001.150 Public Inspection and Copying.

(a) A copy of each application, except material for which protection is claimed as trade secrets or privileged or confidential information, will be available for inspection and copying at NOAA, Office of Ocean Minerals and Energy, Room 410, Page Building No. 1, 2001 Wisconsin Ave. NW., Washington, D.C. 20235.

(b) The Administrator will designate a custodian of all documents filed in a proceeding for which protection is claimed under § 1001.100 of this Part. The custodian will not make public for inspection documents for which protection is claimed nor otherwise disclose such information, unless the NOAA General Counsel is of the opinion that the requirements of § 1001.100(c) of this Part have been satisfied. The custodian will keep a record of all officers and employees of the Department having custody of any copy or copies of protected documents.

Subpart B—Information To Be Submitted With Application

§ 1001.160 Why is this information required?

(a) *Information for NOAA.* The Act requires the Administrator to make a number of factual determinations with respect to issuance of a license. This subpart prescribes the information which the applicant must provide with the application. If additional information later becomes necessary to enable the Administrator to make those determinations, the Administrator will use the procedures in § 1001.90 of this Part to obtain it from the applicant.

(b) *Information for other Federal agencies and departments.* The Act requires the Administrator not to issue a license if it is determined that the applicant cannot or will not comply with applicable laws and regulations. This Subpart prescribes information which the applicant must provide with the application to enable the Administrator to make that determination. If additional information later becomes necessary to complete the application proceeding, the Administrator will use the procedures in § 1001.90 of this Part to obtain it from the applicant.

§ 1001.170 Request for use of the Consolidated Application Review (CAR) Process.

(a) *Request.* If the applicant wishes to have the CAR process used the application shall so indicate.

(b) *CAR team representative.* If the applicant requests use of the CAR process, the applicant shall designate a

representative to the CAR team in his application.

§ 1001.180 Information about the applicant and its affiliates.

(a) *General.* The following information on the applicant and its affiliates shall be provided with the application:

(1) The name, mailing address, telephone number, citizenship, and the ownership interest in the applicant and its affiliates, of each person having any controlling interest in the applicant or its affiliates or any ownership interest in the applicant or its affiliates of greater than 5 per centum; and

(2) The name, address, and citizenship of any person with whom the applicant and its affiliates have made, or propose to make, a significant contract for the construction or operation of the OTEC facility or plantship, or for any major component of the OTEC facility or plantship, and a copy of such contract.

(b) *Proof of citizenship and authority.* (1) If the applicant is a partnership or sole proprietorship, an affidavit from each partner or the proprietor, respectively, stating that the individual is a citizen of the United States of America.

(2) If the applicant is a corporation, one copy of its charter or instrument by which the corporation is formed and organized under general corporation laws, certified by the Secretary of State or other appropriate authority of the State in which incorporated, a copy of its by-laws certified by its Secretary or an Assistant Secretary, and an affidavit from its president, or holder of similar office, and each member of its board of directors stating the individual's citizenship.

(3) If the applicant is a Federal, State, or local government in the United States, or any entity of any such government, a copy of the laws authorizing the operations detailed in the application.

(4) If the applicant is an association or other entity, a copy of its charter or instrument by which the entity is organized or existing under the laws of the United States, or of any State and an affidavit from its principal executive officer, or holder of similar office, and from each member of its board of directors, stating the individual's citizenship.

(c) *Address for service of documents.* Each application shall contain the name and address of a person upon whom service may be made if a formal hearing is to be held on the application and the name and address of a person to whom documents not required to be served may be sent.

(d) *Technical competence.* The following information on the experience of the applicant shall be provided with the application:

(1) A description of the technical competence in offshore operations of the applicant and each consultant, naval architect, or marine engineering firm, if known, that will participate in the design of the OTEC facility or plantship, with particular emphasis on involvement in offshore construction, deployment of large structures, submarine electrical transmission cables, submarine pipelines, seabed foundations, mooring systems, and other experience that would bear on one's qualifications to participate in the construction or operation of an OTEC facility or plantship.

(2) A listing and abstract of each study relied upon by the applicant and a listing and abstract of each ongoing or completed study pertaining to OTEC facilities or plantships conducted by or for the applicant.

(e) *Finances and production.* The following information on the financial situation and production history and plans of the applicant and each of its affiliates shall be provided with the application:

(1) The most recent annual financial statement of the applicant and each of its affiliates, including an income statement and a balance sheet, accompanied by an opinion of a certified public accountant;

(2) An estimate of construction costs, by phases;

(3) A detailed estimate of the cost of removal or at sea disposal of all marine components of the OTEC facility or plantship other than electrical transmission cables or pipelines lying below the seabed;

(4) Annualized projections or estimates of each of the following, for the first, third, sixth, ninth, etc. year of operation throughout the requested duration for the OTEC facility or plantship license:

(i) Total gross and net production of electricity;

(ii) Total production of other products;

(iii) Estimated unit cost to the end user of produced electricity or product;

(5) A copy of every agreement or proposal of the applicant and each of its affiliates relating to the ownership, lease, charter, or management of the OTEC facility or plantship or any of its components and to the financing of the construction or operation of the OTEC facility, plant, or plantship or component thereof, including those relating to production of electricity or other products, capital contributions, loans, guarantees, and commitments therefor;

(6) An estimate of the amount of fuel or other raw materials which would be saved or made available for other uses because of the operation of the OTEC facility or plantship, projected on an annual basis extending throughout the expected useful life of the OTEC facility or plantship. The estimates provided under this paragraph should be supported by analysis of the specific markets in which the OTEC facility or plantship would compete; and

(7) From each applicant, and each affiliate of an applicant, engaged in the production of electricity or other product to be produced by the OTEC facility or plantship which is the subject of the application, for each of the three calendar years immediately prior to the date of application, its:

(i) Locations; and

(ii) Total U.S. and total worldwide:

(A) Gross and net production of electricity; and

(B) Production of products which would be produced by the OTEC facility or plantship which is the subject of the application.

§ 1001.190 General information on the OTEC facility or plantship.

The following general information shall be submitted with the application in the order specified in this section:

(a) The proposed physical size and location (for a plantship, a description of the area in which the plantship is intended to be operated) of the OTEC facility or plantship, and the intended capacity of such facility or plantship to produce electricity, fresh water, or other products;

(b) A description of the thermal energy conversion cycle to be used by the OTEC facility or plantship;

(c) A description of any production, processing, refining, or manufacturing process which will be used to make a product;

(d) A description of the methods which will be used to deliver electricity, fresh water, or other product to shore;

(e) A general description of the major components of the OTEC facility or plantship; and any pipeline or electrical transmission system or other product transfer system associated with such OTEC facility or plantship;

(f) If construction and deployment is expected to proceed in phases, a description of each phase, including the anticipated date of completion for each phase;

(g) The intended daily volumes of warm and cold water flow through the OTEC facility or plantship;

(h) A description of the procedures to be used in constructing, operating, and

maintaining the OTEC facility or plantship, including procedures to be used to conduct any Federally permitted pollutant discharge from the OTEC facility or plantship;

(i) A description of the procedures to be used in constructing, operating, and maintaining the OTEC facility or plantship to prevent any unpermitted pollutant discharge; and

(j) An emergency pollutant discharge contingency plan which describes the equipment, training, procedures, and maintenance required to respond to or clean up any unpermitted pollutant discharge from the OTEC facility or plantship. (Standards for such a plan and for review of the adequacy of such a plan will be determined by the Coast Guard).

§ 1001.200 Requested duration of license.

The applicant shall submit with the application a statement of the requested duration of the license he is seeking, along with the economic, technical, or other basis for the requested duration.

§ 1001.210 Compliance with other Federal laws and regulations.

(a) If the proposal of the applicant is subject to regulation under the cited authority, the information specified in this section shall be submitted with the application.

(b) *Clean Water Act.* The information required to be submitted to the Environmental Protection Agency to obtain a *National Pollutant Discharge Elimination System* (NPDES) permit under section 402 of the *Clean Water Act* (Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576; 33 U.S.C. 1251 *et seq.*). The procedures and information required for such submittals are set out in 33 CFR Part 122, 33 CFR Part 124, and 40 CFR 125.120 *et seq.*

(c) *Clean Water Act.* The information required to be submitted to the Corps of Engineers within the Department of the Army to obtain a *Permit for Discharges of Dredged or Fill Material into Waters of the United States* under section 404 of the *Clean Water Act* (Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576; 33 U.S.C. 1251 *et seq.*). The procedures and information required for such submittals are set out in 33 CFR Part 320, 33 CFR Part 323, and 33 CFR Part 325.

(d) *Marine Protection, Research, and Sanctuaries Act of 1972.* The information required to be submitted to the Corps of Engineers within the Department of the Army to obtain a *Permit for Ocean Dumping of Dredged Material* under section 103 of the *Marine Protection, Research, and Sanctuaries Act of 1972,* as amended (33 U.S.C. 1413). The procedures and information required for such submittals are set out in 33 CFR Part 320, 33 CFR Part 324, and 33 CFR Part 325.

(e) *River and Harbor Act of 1899.* The information required to be submitted to the Corps of Engineers within the Department of the Army to obtain a *Permit for Structures or Work in or Affecting Navigable Waters of the United States* under section 10 of the *River and Harbor Act of 1899,* 33 U.S.C. 403. The procedures and information required for such submittals are set out in 33 CFR Part 320, 33 CFR Part 322, and 33 CFR Part 325.

(f) *Endangered Species Act of 1973.* The information required to determine whether the activities of the OTEC facility or plantship are likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their critical habitats, as determined under the *Endangered Species Act of 1973* (16 U.S.C. 1531 *et seq.*). For the lists of endangered species, see 50 CFR Parts 17 and 222; for the lists of threatened species, see 50 CFR Parts 17 and 227; for the lists of designated critical habitats, see 50 CFR Parts 17 and 226.

(g) *Coastal Zone Management Act of 1972.* The certification or certifications required to be submitted to NOAA under section 307(c) of the *Coastal Zone Management Act of 1972* (CZMA) (16 U.S.C. 1456(c)).

(h) *Outer Continental Shelf Lands Act Amendments of 1978.* The information required to be submitted to the Corps of Engineers within the Department of the Army to obtain a *Permit for Artificial Islands, Installations, and Other Devices, Installed on the Outer Continental Shelf, which May Obstruct Navigation,* under section 4(e) of the *Outer Continental Shelf Lands Act* (16 U.S.C. 203(e)). The procedures and information required for such submittals are set out in 33 CFR Part 322.

(i) *Additional Federal authorizations required.* All other applications for Federal authorizations required for ownership, construction, location, and operation of the proposed OTEC facility or plantship not listed elsewhere in this Part.

§ 1001.220 OTEC site information.

(a) *General.* The following information on the proposed OTEC facility site or proposed OTEC plantship operating site(s), as appropriate, shall be submitted with an application.

(b) *Site plan.* Single-line drawings and descriptions showing the location and type of each major component and appurtenance of the proposed OTEC facility or plantship, including floating structures, fixed structures, electrical power transmission cables, aids to navigation, industrial process systems, offshore and onshore pipelines, electrical substations and switching stations. One of these drawings must be a large-scale nautical chart of the area in which the proposed OTEC facility or plantship would operate.

(c) *Existing human uses.* Single-line drawings of the marine area within five miles of the proposed site showing the nature and location of any cables, pipelines, offshore drilling or production platforms, aids to navigation, sewage outfalls, or other man-made structures and equipment. These drawings must also show the boundary lines and identification of each Outer Continental Shelf lease block, submarine transit lane, fishing ground, military use area, or other special area noted on navigation charts for the area covered by the drawings, or otherwise known to the applicant.

(d) *Marine components.* A description of:

(1) The proposed size and location of:

(i) All fixed and floating structures;

(ii) In the case of a moored OTEC facility, watch circles;

(iii) Maneuvering areas;

(iv) Recommended ships' routing measures considered necessary or appropriate for the protection of the OTEC facility or plantship;

(v) Recommended anchorage areas, if any;

(vi) Recommended mooring area for support vessels;

(vii) Pipelines and cables within the marine site;

(2) A reconnaissance hydrographic survey of the proposed marine site; and

(3) The charted water depth throughout the proposed marine site as verified by the reconnaissance hydrographic survey.

Note.—A requirement to submit an engineering hydrographic survey of the final marine site will be imposed as a license condition.

(e) *Soil data.* An analysis of the general character and condition of the ocean bottom and sub-bottom strata throughout the marine site and long the path of any cold or warm water intake or discharge piping, electrical transmission cable, or pipeline to the shore, including an opinion by a registered professional engineer with appropriate expertise and training, concerning:

(1) The suitability of the ocean bottom and sub-bottom strata to accommodate the anticipated design load of each

marine component that will be fixed to or supported on the ocean floor as evidenced by foundation tests, geo-hazard reports, and geo-technical reports; and

(2) The stability of the seabed when exposed to the environmental forces resulting from severe storms, or to lesser forces that continue for an extended period, including any history of accretion or erosion of the coast line proximity to the marine site.

(f) *Onshore components.* A description of the size and location of major onshore components of the OTEC facility, including:

(1) Onshore electrical transmission cables or pipelines;

(2) Electrical substations;

(3) Switching stations;

(4) Electrical transmission lines;

(5) Storage facilities; and

(6) Industrial plants.

§ 1001.230 Operational information.

(a) Each applicant shall specify the wind, wave, and current conditions during which the licensee would initiate the following actions:

(1) Shutdown of electrical power or other product production operations.

(2) Prohibition on supply vessels or product transport vessels mooring to an OTEC facility or plantship.

(3) Shutdown of all operations and evacuation of the OTEC facility or plantship.

(b) Each application shall contain a description of the calculations and other information used to specify the conditions described in paragraph (a) of this section.

§ 1001.240 Design information.

(a) The applicant shall submit the design information specified in this section with his application.

(b) *Major floating components data.* (1) A description and preliminary design drawing of each major floating component, including the electrical transmission riser cable, product transfer system, or cold water pipe suspension system if they are floating systems in whole or in part, along with any floating anchoring or securing structure.

(2) The design criteria to which each major floating component is to be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed by or for the applicant on a major floating component.

(6) A description of safety, lifesaving, and fire fighting equipment to be used on each major floating component.

(7) The personnel capacity of each OTEC plantship.

(c) *Major fixed marine components.* (1) A description and preliminary design drawing of each major fixed marine component.

(2) The design criteria to which each major fixed marine component is to be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed by or for the applicant for any major fixed marine component and utilized in the development of the application.

(6) A description of safety, lifesaving, and fire fighting equipment to be used on each major fixed marine component.

(7) The personnel capacity of each OTEC facility.

(d) *Major onshore components.* (1) A description and preliminary design drawing of each major onshore component.

(2) A description and the results of any design and evaluation studies performed by or for the applicant for any major onshore component and used in development of the application.

(3) A description of the safety and firefighting equipment to be used in each major onshore component.

(e) *Offshore electrical transmission cable or pipeline components.* (1) A description and preliminary design drawing of the submarine electrical transmission cable or pipeline, including size, capacity, length, depth and protective devices.

(2) The design criteria to which the submarine electrical transmission cable or pipeline is to be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of the manner in which of all submerged or buried communications cables, electrical transmission cables, and pipelines will be crossed by the offshore submarine electrical transmission cable or pipeline.

(f) *Miscellaneous components data.* (1) A description of the navigation safety equipment required under 33 CFR Part 164 for a plantship.

(2) A description of aids to navigation to be established on the OTEC facility in accordance with 33 CFR Part 64 and 33 CFR Part 66.

(3) A description of the proposed navigational lighting for the OTEC plantship in accordance with the International Regulations for Prevention of Collisions at Sea, 33 CFR Part 87.

(4) A description of the radio stations or other communications facilities and the proposed method of operation to serve the OTEC facility or plantship during construction and operation, including systems to communicate with transient shipping for safety at sea.

Note.—Federal Communications Commission applications for the OTEC facility or plantship may be submitted directly to the Federal Communications Commission when sufficient technical information is available to meet the rules of that agency. The holding of appropriate Federal Communications Commission licenses will be made a condition on each OTEC facility or plantship license.

(5) A description of plans and methods of operating vessels supplying, or transporting products from, the OTEC facility or plantship.

(6) Type, size and number of vessels to be used in supplying or transporting products from the OTEC facility or plantship.

(7) A description and exact location of any shore based support facilities to be provided for vessels described in paragraphs (f)(5) and (f)(6) of this section.

§ 1001.250 Construction and deployment procedures.

A description of the locations, methods and procedures to be used in constructing and deploying each major marine component of the OTEC facility or plantship. This description must include an explanation of the method for emplacing any submarine electrical transmission cable.

§ 1001.260 Environmental information.

(a) The following environmental information shall be provided with the application:

(1) A description of the area or areas of the ocean in which the OTEC activities of the applicant might impact so as to significantly degrade the operation of another OTEC facility or plantship, and in which the potential operation of another OTEC facility or plantship might impact so as to significantly degrade the OTEC operation proposed by the applicant;

(2) The quantities, composition and potential for bioaccumulation or persistence of any pollutants which may be discharged from the facility or plantship;

(3) The potential transport of such pollutants by biological, physical or chemical processes;

(4) The composition and vulnerability of the biological communities which may be exposed to such pollutants, including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the Endangered Species Act, or the presence of those species critical to the structure or function of the ecosystems, such as those important for the food chain;

(5) The potential impacts on human health of such pollutants through direct and indirect pathways;

(6) The importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of an organism.

(7) The existence of special aquatic sites which might be significantly impacted by the proposed OTEC operations including, but not limited to estuarine or marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs;

(8) A description of existing or potential recreational and commercial fishing areas, including finfishing and shellfishing areas which might be significantly impacted by the proposed OTEC operations;

(9) A description of expected meteorological and climatic conditions in the area(s) described in paragraph (a)(1) of this section, including estimates of the frequency and severity of extreme meteorological events;

(10) For an OTEC facility, a description of the seismological conditions at the proposed site, including estimates of the frequency and severity of extreme seismological events;

(11) A description of the physical oceanographic conditions in the area(s) described in paragraph (a)(1) of this section, including currents and tides;

(12) A description of the environmental monitoring program proposed by the applicant to:

(i) Demonstrate compliance with applicable Federal, State, or other pertinent water quality standards;

(ii) Provide for early detection of potential releases of pollutants from the OTEC facility or plantship; and

(iii) Monitor the effects of Federally permitted discharges from the OTEC facility or plantship on water, sediment, and biological quality.

(b) A description and the results of any study or evaluation used by the applicant to develop the information required by this section must be submitted with the application.

Subpart C—License Application Review Procedures

§ 1001.270 What is the license application review process?

This subpart describes the process which is used by NOAA to review an application for an OTEC license. The Act prescribed certain mandatory steps in the process and establishes deadlines for their completion. The mandatory steps in the license application review process are set out first in this Subpart in §§ 1001.280 through 1001.370. NOAA has also developed a voluntary Consolidated Application Review (CAR) process which will be used by NOAA and, on a voluntary basis, by other involved Federal, State, and local government entities, to coordinate reviews associated with all Federal, State, and local government authorizations required for ownership, construction, and operation of an OTEC facility or plantship. The steps in the CAR process are set out in this Subpart after the mandatory review procedures, beginning at § 1001.380.

§ 1001.280 NOAA Review for Completeness.

(a) Within 21 days after the receipt of an application, the Administrator will determine whether the application appears to contain all of the information required by Subpart B of this Part. In making this determination the Administrator will consult with other involved Federal agencies and departments.

(b) If the Administrator determines that such information appears to be contained in the application, the Administrator will take the actions under § 1001.290 of this Part.

(c) If the Administrator determines that all of the required information does not appear to be contained in the application, the Administrator will notify the applicant in accordance with § 1001.90 of this Part. The Administrator may decide to take no further action with respect to processing the application until such deficiencies have been remedied.

(d) The time limitations of this Subpart do not begin to run until the date on which the Administrator determines under paragraph (b) of this section that the application appears to be complete.

§ 1001.290 Publication of notice of application; contents of notice; call for additional applications for OTEC facilities.

(a) Not later than 5 days after determining under § 1001.280 of this Part that an application appears to be complete, the Administrator will publish notice of receipt of the application, together with a summary of the plans specified in the application, in the Federal Register.

(b) In the case of an application for an OTEC facility the published notice also will include:

(1) A description of the designated application area encompassing the proposed OTEC facility, and within which:

(i) The OTEC activities proposed by the applicant might impact so as to significantly degrade the operation of another OTEC facility or plantship; and

(ii) The potential operation of another OTEC facility or plantship might impact so as to significantly degrade the OTEC operation proposed by the applicant, unless the application is for a license for an OTEC facility to be located within an application area which has already been designated; and

(2) A call for submission of any other applications for licenses for the ownership, construction, and operation of an OTEC facility within the designated application area.

(c) Any person intending to file an application referred to in paragraph (b)(2) of this section shall submit a notice of intent to file an application to the Administrator not later than 60 days after the publication of notice pursuant to paragraph (a) of this section, and shall submit the completed application no later than 90 days after publication of such notice. the Administrator shall publish notice of any such application received in accordance with paragraph (a) of this section. No application for a license for the ownership, construction, and operation of an OTEC facility within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until action has been completed on all timely filed applications pending with respect to such application area.

§ 1001.300 Other Federal agencies and departments.

(a) At the time notice of any application is published pursuant to § 1001.290 of this Part, the Administrator will forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of OTEC facility or plantship ownership, construction, or operation for review, comment, and recommendation as to license conditions and for such other action as may be required by law. The Federal agencies involved, shall include, but are not limited to, the Environmental

Protection Agency and the Departments of Energy, Transportation, State, the Interior, Justice and Defense.

(b) Each Federal agency or department involved (other than the Department of Justice, which shall conduct its review in accordance with § 1001.320 of this Part) shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Administrator the approval, approval subject to conditions, or disapproval of the application not later than 45 days after public hearings are concluded pursuant to this Part. In any case in which an agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Administrator of the manner in which the application may be amended or the license conditioned so as to bring it into compliance with the law or regulation involved.

(c) In addition to the requirements of paragraph (b) of this section, each Federal agency or department is strongly encouraged to conduct its review of the application and to make its initial or tentative recommendation of approval or denial to the Administrator before public hearings begin under § 1001.340 of this Part, so that such hearings can address those tentative recommendations. The NOAA Administrator will also attempt to make his preliminary views on the application and possible license terms and conditions available before the first public hearings is held under § 1001.340 of this Part.

§ 1001.310 EIS for each application.

(a) *General.* (1) The issuance of any license for ownership, construction, and operation of an OTEC facility or plantship will be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)).

(2) Whether other actions concerning a license, such as transfer or renewal of the license, require full EIS procedures will be determined on a case-by-case basis in accordance with NEPA.

(b) *NOAA as lead agency.* For all timely applications covering proposed OTEC facilities in a single application area, and for each application relating to a proposed OTEC plantship, the Administrator will, pursuant to section 102(2)(C) of NEPA and in cooperation with other involved Federal agencies and departments, prepare a single EIS which will fulfill the requirements of all Federal agencies in carrying out their responsibilities pursuant to the Act to prepare an EIS.

§ 1001.320 Antitrust review.

(a) Promptly after determining under § 1001.280 of this Part that an application appears to be complete, the Administrator will transmit to the Attorney General a complete copy of such application.

(b) Within 90 days after receipt of the application under § 1001.300(a), the Attorney General shall conduct such antitrust review of the application as he deems appropriate, and submit to the Administrator, in writing, any advice or recommendations he deems advisable to avoid any action upon such application by the Administrator which would create a situation inconsistent with the antitrust laws.

(c) The Administrator will not issue the license during the 90-day period, except upon written confirmation by the Attorney General that he does not intend to submit any further advice or recommendation on the application during such period.

(d) If the Attorney General fails to file such views within the 90-day period, the Administrator will proceed as if such views had been received.

§ 1001.330 Designation of adjacent coastal States.

(a) *Automatic designation.* (1) The Administrator will designate as an "adjacent coastal State" any coastal State:

(i) Which would be directly connected by electric transmission cable or pipeline to an OTEC facility as proposed in an application;

(ii) In whose waters any part of such proposed OTEC facility would be located; or

(iii) In whose waters an OTEC plantship would be operated as proposed in an application.

(2) The Administrator will announce the designation of an adjacent coastal state under paragraph (a)(1) of this section in the notice of application published in the **Federal Register** under § 1001.290 of this Part.

(b) *Other designation.* (1) The Administrator will, upon request of a State, designate such State as an "adjacent coastal State" if he determines that:

(i) There is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State required to be designated as an "adjacent coastal State" by paragraph (a)(1) of this section, or

(ii) That the proposed OTEC activities of the applicant are likely to impact at possible locations for OTEC facilities which could reasonably be expected to be directly connected by electric transmission cable or pipeline to such State, so as to significantly degrade such OTEC activities.

(2) Any State requesting designation as an "adjacent coastal State" under paragraph (b)(1) of this section must make its request to the Administrator, in writing, not later than the 14th day after the date of publication of notice of application for a proposed OTEC facility or plantship in the **Federal Register** under § 1001.290 of this Part. The request must be signed by the Governor of the requesting State, and must specify in detail the reasons why the State believes the Administrator should make a determination under paragraph (b)(1) of this section.

(3) The Administrator will make any designation required by paragraph (b)(1) of this section not later than the 45th day after the date he receives such a request from a State.

(c) *Adjacent coastal State review of application.* Not later than 5 days after the designation of an adjacent coastal State pursuant to this section, the Administrator will transmit a complete copy of the application to the Governor of such State.

(d) *Consultation with adjacent coastal States with approved Coastal Zone Management programs license conditions.* (1) The Administrator will not issue a license without consultation with the Governor of each adjacent coastal State which has an approved Coastal Zone Management (CZM) program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*).

(2)(i) If the Governor of a State referred to in paragraph (d)(1) of this section determines that an application is inadequate or inconsistent in some respect with the State's CZM program or other applicable State or local laws, the Governor may notify the Administrator, as to:

(A) The part of the State's CZM program, or the other applicable State or local law, with respect to which the application is inadequate or inconsistent;

(B) The manner in which or reason why the application is inadequate or inconsistent; and

(C) How the application may be amended, or the license conditioned, so as to make activities conducted under the license consistent with the State's CZM program and other applicable State and local laws.

(ii) Any notice given to the Administrator by a Governor under paragraph (d)(2)(i) of this section must be in writing, and must contain the information described in paragraphs (d)(2)(i) (A) through (C) of this section.

(3) If the Governor of a State referred to in paragraph (d)(1) of this section has not transmitted his approval, or disapproval under paragraph (d)(2) of this section, to the Administrator by the 45th day after public hearings on the application are concluded under this Part, his approval shall be conclusively presumed.

(4) Upon timely receipt of notice from a Governor under paragraph (d)(2) of this section, the Administrator will condition any license granted to make activities conducted under the license consistent with the State's CZM program and other applicable State and local laws. If a license cannot be so conditioned, the Administrator will not issue the license.

(e) *Consideration of views of other States.* Any adjacent coastal State which does not have an approved CZM program in good standing, and any other interested State, will have the opportunity to make its views known in writing to, and to have them given full consideration by, the Administrator regarding any application for a license for the ownership, location, construction, or operation of an OTEC facility or plantship.

§ 1001.340 Informal public hearings on license application.

(a) *General.* (1) A license may be issued only after public notice, opportunity for comment, and public hearings in accordance with this Part.

(2) Hearings held under this Part will be consolidated insofar as practicable with hearings held by other agencies.

(b) *Multiple applications for OTEC facilities.* If two or more license applications for OTEC facilities have been filed for the same designated application area, the Administrator will consolidate the hearings on the applications.

(c) *Location.* With respect to each license application, at least one public hearing will be held in the District of Columbia and in any adjacent coastal State in which an OTEC facility which is the subject of the application is proposed to be located or to which it would be directly connected by pipeline or electric transmission cable.

(d) *Notice of public hearing.* After all applications in a proceeding are filed, the Administrator will publish a notice of public hearing in the **Federal Register** and mail or deliver a copy of the notice to any person who requests it and to each applicant and to the Governor of each adjacent coastal State. Each notice will list the applicant(s), state the time and place for the hearing, and describe any factual issues in the proceeding. A notice may prescribe procedural matters to govern the hearing, may designate the presiding officer assigned by the Administrator for the hearing, and may contain such other information as the Administrator determines may facilitate the conduct of the hearing.

(e) *Participation by interested persons.* Interested persons may attend any public hearing, present relevant material at the hearing, and submit written material and oral statements during the hearing at a time determined by the presiding officer.

(f) *Report of public hearing.* Within 21 days after a public hearing is completed, the presiding officer will prepare a report of the hearing. The report at a minimum will contain a summary of the materials presented and factual issues raised at the hearing and will have attached to it a transcript of the hearing and all relevant written materials submitted to the presiding officer.

§ 1001.350 Formal hearings on material factual issues.

(a) If, on the basis of the hearing report required by § 1001.340 of this Part, the Administrator determines that there exists one or more specific and material factual issues which must be resolved by a formal evidentiary hearing, he will issue a notice of formal hearing under § 1001.560(d).

(b) If the Administrator determines under paragraph (a) of this section that a formal hearing is necessary, at least one adjudicatory hearing will be held in the District of Columbia in accordance with 5 U.S.C. 554 and the procedures set forth in Subpart E of this Part. The record developed in any such adjudicatory hearing will be part of the basis for the Administrator's decision to approve or deny a license.

§ 1001.360 Timely conclusion of public hearings.

(a) All public hearings on all applications with respect to OTEC facilities for any designated application area will be concluded not later than 240 days after notice of the initial application has been published under § 1001.290 of this Part.

(b) All public hearings on applications with respect to OTEC plantships will be concluded not later than 240 days after notice of the application has been published pursuant to § 1001.290 of this Part.

(c) Upon conclusion of all public hearings with respect to an OTEC license application under this Part, the Administrator will publish a notice in the **Federal Register** stating that all such public hearings have been concluded and specifying the date by which recommendations or notice must be submitted under §§ 1001.300(b) and 1001.330(d)(3).

§ 1001.370 Timely issuance of draft and final EIS's on the application.

(a) *Draft EIS.* Each draft EIS relating to proposed OTEC facilities or plantships will be prepared and issued within 180 days after notice of the initial application has been published pursuant to § 1001.290 of this Part.

(b) *Final EIS.* Each final EIS shall be issued not later than 90 days following the date on which public hearings are concluded pursuant to § 1001.360 of this Part.

(c) *Extension of time periods.* The Administrator may extend the deadlines specified in paragraphs (a) and (b) of this section for issuance of a specific draft or final EIS to a later specified date if the Administrator states in writing good cause for such extension.

§ 1001.380 Steps in the voluntary consolidated application review (CAR) process.

(a) The voluntary CAR process, which supplements the preceding mandatory steps in this subpart, includes the following procedures:

(1) Early designation of a representative from each participating Federal, State, and local government entity, as well as the OTEC license applicant, to serve as members of the Consolidated Application Review (CAR) Team.

(2) Development and signing of a Joint Agreement among the participating Federal, State, and local government entities and the applicant. The Joint Agreement identifies the members of the CAR Team, details the regulatory and review responsibilities of each participating government agency having jurisdiction over any aspect of the construction or operation of OTEC facilities or plantships, and outlines the responsibilities of the applicant in the CAR process.

(3) Conducting an inter-agency meeting with all members of the CAR team which includes a briefing by the applicant on the details of the proposed OTEC facility or plantship, and a briefing by the government members on the procedures to be used in processing all necessary permits, authorizations, and approvals.

(4) Implementation of the CAR schedule, including completion of

required regulatory reviews, conduct of necessary public hearings, preparation of an Environmental Impact Statement, and other CAR Team activities necessary to ensure close coordination of the OTEC license review process.

§ 1001.390 Voluntary nature of CAR process.

(a) *Applicant.* Participation by the applicant in the CAR process is voluntary. If the applicant desires to have the application processed by the CAR process the application shall so indicate and shall contain a designation of a CAR team representative.

(b) *Other Federal, State, and local government entities.* Participation by other Federal, State, and local government entities in the CAR process is voluntary. If an applicant indicates a desire to use the CAR process, NOAA will contact other Federal, State, and local government entities with expertise concerning, or jurisdiction over, any aspect of the construction or operation of the OTEC facility or plantship proposed by the applicant and invite them to designate a representative to serve on the CAR Team for that application.

(c) *Other application review agreements.* Agreements other than the Joint Agreement may, at the option of the affected parties, be negotiated between the applicant and individual regulatory agencies, or between regulatory agencies, regarding any aspect of the regulatory reviews necessary pursuant to any government permit, license, or authorization required for construction or operation of the OTEC facility or plantship which is the subject of the application.

§ 1001.400 Effect of joint agreement on authorities.

Nothing in the Joint Agreement developed by the CAR team shall abrogate the statutory, regulatory, or administrative responsibilities and rights of any party, agency, or jurisdiction. The CAR agreement is voluntary, and all parties will, in good faith, work in a cooperative and coordinated fashion to carry out the responsibilities stated therein.

§ 1001.410 Request for designation of Federal CAR team members.

Not later than the time the Administrator forwards copies of the application to other Federal agencies and departments pursuant to § 1001.300 of this Part, the Administrator will request that each such agency and department designate a representative to serve on the CAR team for the application, if the applicant has requested that the CAR process be used for application review. Such Federal agencies and departments will be requested to make CAR team member designations within 14 days of receipt of the Administrator's request.

§ 1001.420 Request for designation of State and local CAR team members.

(a) *State members.* Not later than the time the Administrator forwards copies of the application to designated adjacent coastal States pursuant to § 1001.330 of this Part, the Administrator will request that each such adjacent coastal State designate a representative to serve on the CAR team for the application, if the applicant has requested that the CAR process be used for review of the application. Such designated adjacent coastal States will be requested to make CAR team member designations within 14 days of receipt of the Administrator's request.

(b) *Local government members.* The request from the Administrator pursuant to paragraph (a) of this section will include a request that the designated adjacent coastal State coordinate with affected local government entities within such State to assist such entities is designating CAR team members to serve on the CAR team for the application. Such designated adjacent coastal States will be requested to forward local government CAR team member designations to the Administrator within 14 days of receipt of the Administrator's request.

§ 1001.430 Development of joint agreement by CAR team.

(a) *Schedule.* Within 45 days after all members of the CAR team for the application are designated pursuant to this part, the CAR team will develop and sign a Joint Agreement among the participants.

(b) *Content.* The Joint Agreement will include, as a minimum:

(1) An identification of all members of the CAR team.

(2) A statement of the regulatory and review responsibilities of each government entity represented on the CAR team.

(3) A statement of the responsibilities of the representative of the applicant during the CAR process to be conducted on the application.

(4) A schedule of meetings, hearings, and decisions which must be completed during the CAR process.

(5) A brief description of the OTEC facility or plantship proposal which is the subject of the application.

(c) *Availability.* After the Joint Agreement is completed and signed by CAR team participants, it will be listed on the docket and made a part of the record of the application proceeding in accordance with § 1001.140 of this part. The Joint Agreement will then be available for public inspection and copying in accordance with § 1001.150 of this Part.

§ 1001.440 Interagency CAR team meeting.

(a) *Schedule.* After completion of the Joint Agreement and prior to any public hearing on the application required by the Act, the CAR team will hold a public meeting.

(b) *Content.* The inter-agency CAR team meeting will consist of a briefing by the applicant on the details of the proposed OTEC facility or plantship and briefings by each government member of the CAR team on the procedures to be used in processing all necessary permits, authorizations, and approvals.

(c) *Public participation.* Interested persons may attend the inter-agency CAR team meeting, present relevant material, and submit written and oral statements at a time determined by the presiding officer.

§ 1001.450 Implementation of the CAR schedule.

(a) *Cooperation.* All members of the CAR team will, in good faith, work in a cooperative and coordinated fashion to address the responsibilities stated in the Joint Agreement and to assure that the schedule in the Joint Agreement is adhered to.

(b) *Delays.* All parties to the Joint Agreement will make good faith efforts to adhere to the schedule agreed to therein. However, if unavoidable delays occur in submittal and review of information during the CAR process, the CAR team members will revise the Joint Agreement schedule accordingly. A copy of any such revised schedule will be listed in the docket and made part of the record of the application proceeding.

Subpart D—Criteria for Approval or Denial of Application and for Establishment of License Terms and Conditions; Renewal Transfer, Suspension, Revocation, Termination, Relinquishment, and Surrender

§ 1001.460 Timely approval or denial of application for a license.

(a) The Administrator will approve or deny any timely filed application with respect to an OTEC facility for a designated application area not later than 90 days after public hearings on the applications for that application area are concluded pursuant to § 1001.360 of this Part.

(b) The Administrator will approve or deny an application for a license for ownership, construction, or operation of an OTEC plantship not later than 90 days after the public hearings on the application are concluded pursuant to § 1001.360 of this Part.

§ 1001.470 Criteria for approval or denial.

(a) The Administrator may issue a license in accordance with the provisions of this Part unless:

(1) The Administrator determines that the applicant cannot or will not comply with applicable laws, regulations, and license terms and conditions;

(2) The Administrator determines that the construction and operation of the OTEC facility or plantship will not be in the national interest and consistent with national security and other national policy goals and objectives, including energy self-sufficiency and environmental quality;

(3) The Administrator determines, after consultation with the Secretary of the department in which the Coast Guard is operating, that the OTEC facility or plantship will not be operated with reasonable regard to the freedom of navigation or other reasonable uses of the high seas and authorized uses of the Continental Shelf, as defined by United States law, treaty, convention, or customary international law,

(4) The Administrator has been informed, within 45 days after the conclusion of public hearings on that application, or on multiple applications for OTEC facilities for the designated application area, by the Administrator of the Environmental Protection Agency that the OTEC facility or plantship will not conform with all applicable provisions of any law for which EPA has regulatory authority;

(5) The Administrator has received the opinion of the Attorney General, pursuant to § 1001.320 of this Part, stating that issuance of the license would create a situation in violation of the antitrust laws, or the 90-day period provided in § 1001.320 of this Part has not expired;

(6) The Administrator has consulted with the Secretary of Energy, the Secretary of Transportation, the Secretary of State, the Secretary of the Interior, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions and determined on the basis thereof, that the application for a license is inadequate;

(7) The proposed OTEC facility or plantship will not be documented under the laws of the United States;

(8) The applicant has not agreed to the condition that no vessel may be used for the transportation to the United States of things produced, processed, refined, or manufactured at the OTEC facility or plantship unless such vessel is documented under the laws of the United States;

(9) When the license is for an OTEC facility, the Administrator determines that the facility, including any submarine electric transmission cables and equipment or piplelines which are components of the facility, will not be located and designed so as to minimize interference with other uses of the high seas or the Continental Shelf, including cables or pipelines already in position on or in the seabed and the possibility of their repair;

(10) The Governor of any adjacent coastal State with an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*) notifies the Administrator under § 1001.330(d) that the application is inadequate or inconsistent with respect to programs within his jurisdiction and the license cannot be conditioned as described in § 1001.330(d)(4);

(11) When the license is for an OTEC facility, he determines that the operations of the facility are expected to impact so as to significantly degrade the operations of any other OTEC facility already licensed or operating, without the consent of its owner;

(12) When the license is for an OTEC facility, he determines that the operations of the facility are expected to impact so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation, unless the Secretary of State approves such impact after consultation with such nation;

(13) When the license is for an OTEC plantship, the Administrator determines that the applicant has not provided adequate assurance that the plantship will be operated in such a way as to prevent its operations from impacting so as to significantly degrade the operation of any other OTEC facility or plantship without the consent of its owner, and from impacting so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State approves such impact after consultation with such nation;

(14) When a regulation has been adopted which places an upper limit on the number or total capacity of OTEC facilities or plantships to be licensed under this Part for simultaneous operation, either overall or within specific geographic areas, the Administrator determines that issuance of the license will cause such upper limit to be exceeded;

(15) The Administrator determines that the person to whom the license would be issued is not a United States citizen; or

(16) The Administrator cannot insure that activities authorized by the license are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat of such species, unless an appropriate exemption has been granted under section 7(h) of the Endangered Species Act (16 U.S.C. 1536(h)).

§ 1001.480 Multiple applications.

(a) In the event more than one application for a license for ownership, construction, and operation of an OTEC facility is submitted for the same designed application area, the Administrator will make decisions on license applications in the order in which they were submitted, unless the Administrator determines that one or a specific combination of the proposed facilities clearly best serves the national interest.

(b) In determining whether any one or a specific combination of the proposed OTEC facilities clearly best serves the national interest, the Administrator, in consultation with the Secretary of Energy, will consider the following factors:

(1) The goal of making the greatest possible use of ocean thermal energy conversion by installing the largest capacity practicable in each application area;

(2) The amount of net energy impact of each of the proposed OTEC facilities;

(3) The degree to which the proposed OTEC facilities will affect the environment;

(4) Any significant differences between anticipated dates of commencement of operation of the proposed OTEC facilities; and

(5) Any differences in costs of construction and operation of the proposed OTEC facilities, to the extent that such differentials may significantly affect the ultimate cost of energy or products to the consumer.

§ 1001.490 Condition precedent to issuance of license: Compliance with conditions and prior approval of changes.

(a) *General.* No license will be issued under this Part unless the prospective licensee first agrees in writing that:

(1) There will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in his application, as approved, without prior approval in writing from the Administrator;

(2) There will be no change in the citizenship or ownership of the licensee, as approved, without prior reporting, in writing, to the Administrator; and

(3) The prospective licensee will comply with license terms and conditions the Administrator may prescribe in accordance with the provisions of this Part.

(b) *Emergencies.* In case of an emergency posing an imminent and substantial threat of harm to the OTEC facility or plantship, to human life, or to the environment, the licensee is not required to obtain written approval from the Administrator before making a substantial change referred to in paragraph (a)(1) of this section. If circumstances allow, the licensee should seek oral approval from the Administrator before making a substantial change. The licensee must immediately notify the Administrator, orally or in writing, of each substantial change made.

§ 1001.500 Contents of license.

(a) If an application is approved, a license will be issued containing, among other information, the following:

(1) The name and number or other identification of the OTEC facility or plantship;

(2) The name of the person to whom the license is issued;

(3) If different from the person to whom the license is issued, the name(s) of the owner and operator of the OTEC facility or plantship; and

(4) Terms and conditions on the ownership, construction, location, and operation of the OTEC facility or plantship to which the license is subject pursuant to § 1001.520 of this Part.

§ 1001.510 Duration of licenses and renewals.

(a) *Original license.* Each license issued under this Part will be for such period of years as the Administrator may specify, but not exceeding 25 years.

(b) *Renewals.* Each renewal issued under this Part will be for such period of years as the Administrator may specify, but not exceeding 10 years.

§ 1001.520 Terms and conditions of a license.

(a) *General.* Each license issued for an OTEC facility or plantship will contain such terms and conditions on the ownership, construction, location, and operation of the facility or plantship as specified in this section and such other terms and conditions as the Administrator may prescribe as necessary to carry out the provisions of the Act and this Part, or which are required by any Federal department or agency pursuant to the terms of the Act and this Part.

(b) *Disposal or removal of components of OTEC facility or plantship.* The Administrator will establish as license conditions such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation, termination, relinquishment, or surrender of a license, the licensee will dispose of or remove all components of the OTEC facility or plantship as directed by the Administrator. The requirement to remove or dispose of all components may be waived by the Administrator if:

(1) In the case of components another applicant or licensee requests to use, the Administrator has not yet reached a decision on the request for continued use of the components; or

(2) In the case of components lying on or in the seabed, the Administrator finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to the environment, navigation, fishing, or other uses of the seabed.

(c) *Consistency with programs of an adjacent coastal State.* If the Governor of any adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*), gives timely notice to the Administrator under § 1001.330(d) of this Part that an application is inadequate or inconsistent with the State's Coastal Zone Management program or other applicable State or local laws, the Administrator will condition any license granted to make activities conducted under the license consistent with the State's Coastal Zone Management program and other applicable State and local laws.

(d) *Prevention of inference with other uses of the high seas.* Each license will include such conditions as the Adminsitrator may determine to be necessary and appropriate to ensure that construction and operation of the OTEC facility or plantship are conducted with reasonable regard for navigation, fishing, energy production, scientific research, or other uses of the high seas, either by citizens of the United States or by other nations in their exercise of the freedoms of the high seas as recognized under the Convention on the High Seas and the general principles of international law.

(e) *Discharge impacts.* (1) Each license will include such conditions as the Administrator deems necessary to ensure that Federally permitted discharges from the OTEC facility or plantship will not:

(i) Significantly degrade the operation of another OTEC facility of plantship, or

(ii) Create a significant adverse effect on the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation.

(f) *Additional license condition for OTEC plantships.* Each license issued for an OTEC plantship will contain a condition requiring that the licensee comply with such regulations concerning movement and navigation of OTEC plantships as the Coast Guard may issue under § 109(c) of the Act.

(g) *Monitoring of licensee's activities.* Each license will contain terms or conditions requiring the licensee:

(1) To allow the Administrator to place appropriate Federal officers or employees aboard the OTEC facility or plantship to which the license applies, at such times and to such extent as the Administrator deems reasonable and necessary to assess compliance with any terms, conditions, or regulations applicable to the license, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply;

(2) To cooperate with such officers and employees in the performance of monitoring functions; and

(3) To monitor the environmental effects of the operation of the OTEC facility or plantship in accordance with those terms and conditions.

(h) *Diligence.* Each license will contain a condition that the licensee diligently pursue the construction and operation of the OTEC facility or plantship to which the license applies, as determined by the Administrator's estimate of a reasonable schedule for construction and operation, based on information submitted with the application. The diligence condition established by the Adminsitrator will allow for reasonable delay resulting from unforseeable circumstances.

(i) *Reports and records.* Each license will contain a condition that the licensee keep such records and report periodically to the Administrator such information as the Administrator finds to be necessary and appropriate:

(1) To assess compliance with diligence conditions established under paragraph (h) of this section;

(2) To assess environmental impacts of the OTEC operations of the licensee and to develop mitigation methods; and

(3) To comply with the requirements of Federal law and regulation.

(j) *U.S.-flag transportation vessels.* Each license will contain a condition that no vessel may be used for the transportation to the United States of things produced, processed, refined, or manufactured at the OTEC facility or plantship unless such transportation vessel is documented under the laws of the United States.

(k) *Foreign-flag vessels.* Each license will contain a condition that, except in a situation involving force majeure, the licensee will not permit a vessel, registered in or flying the flag of a foreign state, to call at, load or unload cargo at, or otherwise utilize the facility or plantship which is the subject of the license unless:

(1) The foreign state involved has agreed, by specific agreement with the United States, to recognize the jurisdiction of the United States over the vessel and its personnel while the vessel is located within any safety zone around the facility or plantship established by the Secretary of the department in which the Coast Guard is operating, pursuant to section 108(d) of the Act; and

(2) The vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such safety zone.

(l) *Compliance with other Federal law.* Each license may contain conditions imposed by the Administrator as necessary to assure the compliance of activities conducted under the license with other Federal laws and regulations. Such conditions will be based upon the review of and comment upon the application as conducted by Federal agencies and departments under subpart C of this Part.

§ 1001.530 Renewal of a license.

Each licensee shall have a preferential right to renew a license subject to the requirements of this Part, upon such terms and conditions and for such period of years, not to exceed an additional 10 years for each renewal, as the Administrator determines to be reasonable and appropriate.

§ 1001.540 Transfer of license.

Upon application, a license issued under this Part may be transferred if the Administrator determines that such transfer is in the public interest and that the prospective transferee meets the requirements, and the prerequisites to issuance, of this Part. When a licensee intends to apply for transfer of the license, the licensee and the prospective transferee shall consult with the Administrator regarding applicability of the requirements of this Part to the proposed transfer.

§ 1001.550 Suspension, revocation, termination, relinquishment or surrender of a license.

(a) *Suspension or revocation.* Whenever a licensee fails to comply with any applicable provision of the Act or any applicable rule, restriction, or condition issued or imposed by the Administrator under this Part, the Administrator may request that the Attorney General file an action in an appropriate United States district court:

(1) To suspend the license; or

(2) To revoke such license, if such failure is knowing and continues for a period of 30 days after the Administrator sends notification of such failure to the licensee.

(b) *Automatic operation of license terms.* The Administrator may provide in the terms of a license for automatic suspension or termination upon the occurrence of a fixed or agreed-upon condition, event, or time. In such cases, judicial proceedings under paragraph (a) of this section are not required to effect a suspension or termination.

(c) *Emergency orders.* The Administrator may order the licensee to cease or alter construction or operation activities pending the completion of a judicial proceeding pursuant to paragraph (a) of this section if the Administrator determines that immediate suspension of such activities is necessary to protect public health and safety or to eliminate any imminent and substantial danger to the environment as recognized in any treaty or convention to which the United States is a party.

(d) *Relinquishment or surrender.* (1) Any licensee may at any time, without penalty, surrender to the Administrator a license issued to him, or relinquish to the Administrator, in whole or in part, any right to conduct construction or operation of an OTEC facility or plantship, including part or all of any right of way which may have been granted in conjunction with such license. However, such surrender or relinquishment shall not relieve the licensee of any obligation or liability established by applicable law, or of any obligation or liability for actions taken by him prior to such surrender or relinquishment, or during disposal or removal of any components required to be disposed of or removed pursuant to this Part.

(2) If part or all of a right of way which is relinquished, or for which the license is surrendered, to the Administrator under paragraph (d)(1) of this section contains an electric transmission cable or pipeline which is used in conjunction with another license for an OTEC facility, the Administrator shall allow the other licensee an opportunity to add such right of way to his license before informing the Secretary of the Interior that the right of way has been vacated.

Subpart E—Formal Hearing Procedures

§ 1001.560 Formal hearing procedures.

(a)(1) *General.* All formal hearings described in § 1001.350 are governed by 5 U.S.C. 554 through 557 and the procedures contained in this section.

(2) Hearings held under this section will be consolidated insofar as practicable with hearings held by other agencies.

(b) *Decision to hold a hearing.* (1) Whenever, after holding an informal hearing under § 1001.340 of this Part, the Administrator determines that there are one or more specific and material issues of fact pertaining to the application, which may be resolved by a formal hearing, he will provide for a formal hearing.

(2) The record developed in any such formal hearing will be part of the basis for the Administrator's decision to approve or deny issuance, transfer, or renewal of a license.

(c) *Assignment of Administrative Law Judge.* Upon deciding to hold a formal hearing, the Administrator will refer the proceeding to the NOAA Office of Administrative Law Judges for assignment to an Administrative Law Judge (judge) to serve as presiding officer for the hearing.

(d) *Notice.* (1) The Administrator will publish public notice of the formal hearing in the **Federal Register** at least 15 days before the beginning of the hearing, and will send written notice by registered or certified mail or by personal delivery to:

(i) Each applicant;

(ii) The Governor of each adjacent coastal State;

(iii) Each person who submitted written comments upon the application, or testified at any prior informal hearing on the application; and

(iv) Each person who requests a copy of the notice.

(2) Notice of a formal hearing will include, among other things:

(i) Time and place of the hearing;

(ii) The issues in dispute which are to be resolved in the formal hearing;

(iii) The due date for filing a written request to participate in the hearing in accordance with paragraphs (f)(2) and (f)(3) of this section; and

(iv) Reference to any prior informal hearing from which the issues to be determined arose.

(e) *Powers and duties of the administrative law judge.* Judges have all the powers and duties necessary to preside over the parties and proceedings and to conduct fair and impartial hearings, as specified by 5 U.S.C. sections 554–557 and this section, including the power to:

(1) Regulate the course of the hearing and the conduct of the parties, interested persons and others submitting evidence, including but not limited to the power to require the submission of part or all of the evidence in written form if the judge determines a party will not be prejudiced thereby and if otherwise in accordance with law;

(2) Rule upon requests submitted in accordance with paragraph (f)(2) of this section to participate as a party, or requests submitted in accordance with paragraph (f)(2) of this section to participate as an interested person in a proceeding, by allowing, denying, or limiting such participation;

(3) Hold conferences in accordance with paragraph (i) of this section for the simplification or, if appropriate, settlement of the issues by consent of the parties or to otherwise expedite the proceedings;

(4) Administer oaths and affirmations;

(5) Rule upon requests for, and issue subpoenas for the attendance and testimony of witnesses and the production of books, records, and other evidence upon proper application under paragraph (p) of this section;

(6) Rule on discovery requests, establish discovery schedules, and take or cause depositions or interrogatories to be taken;

(7) Rule on requests for protective orders to protect persons in the discovery process from undue burden or expense, or for other good cause;

(8) Require, at or prior to any hearing, the submission and exchange of evidence;

(9) Rule upon offers of proof and evidence and receive, exclude, and limit evidence as set forth in paragraph (j)(3) of this section;

(10) Introduce documentary or other evidence into the record;

(11) Examine and cross-examine witnesses;

(12) Consider and rule upon motions, procedural requests, and similar matters;

(13) Take such measures as may be necessary (such as sealing portions of the hearing record) to protect information consisting of trade secrets and confidential commercial and financial information;

(14) Schedule the time and place of the hearing (in accordance with the Act), or the hearing conference, continue the hearing from day to day, adjourn the hearing to a latter date, or a different place, and reopen the hearing at any time before issuance of the recommended or initial decision, having due regard for the convenience and necessity of the parties;

(15) Establish rules, consistent with applicable law, for media coverage of the proceedings and for the closure of the hearing in the interest of justice;

(16) Strike testimony of a witness refusing to answer a question ruled to be proper;

(17) Make and file decisions in conformity with this subpart; and

(18) Take any action authorized by the rules in this section or in conformance with 5 U.S.C. 554 through 557.

(f) *Hearings: Participation.* (1) Parties to the formal hearing will include:

(i) The NOAA General Counsel;

(ii) The applicant; and

(iii) Any other person determined by the judge, in accordance with paragraph (f)(2) of this section, to be eligible to participate as a full party.

(2) Any person desiring to participate as a party in a formal hearing must submit a request to the judge to be admitted as a party. The request must be submitted within 10 days after the date of mailing or publication of notice of a decision to hold a formal hearing, whichever occurs later. Such person will be allowed to participate if the judge finds that the interests of justice and a fair determination of the issues would be served by granting the request. The judge may entertain a request submitted after the expiration of the 10 days, but such a request may be granted only upon an express finding on the record that:

(i) Special circumstances justify granting the request;

(ii) The interests of justice and a fair determination of the issues would be served by granting the request;

(iii) The requestor has consented to be bound by all prior written agreements and stipulations agreed to by the existing parties, and all prior orders entered in the proceedings; and

(iv) Granting the request will not cause undue delay or prejudice the rights of the existing parties.

(3)(i) Any interested person who desires to submit evidence in a formal hearing must submit a request within 10 days after the dates of mailing or publication of notice of a decision to hold a formal hearing, whichever occurs later. The judge may waive the 10 day rule for good cause, such as if the interested person, making this request after the expiration of the 10 days, shows that he lacked prior knowledge of the formal hearing, and the evidence he proposes to submit may significantly affect the outcome of the proceedings.

(ii) The judge may permit an interested person to submit evidence at any formal hearing if the judge determines that such evidence is relevant to facts in dispute concerning an issue being adjudicated. The fact that an interested person may submit evidence under this paragraph at a hearing does not entitle the interested person to participate in other ways in the hearing unless allowed by the judge under paragraph (f)(3)(iii) of this section.

(iii) The judge may allow any interested person to submit oral testimony, oral arguments, briefs, or to cross-examine witnesses or participants in other ways if the judge determines:

(A) That the interests of justice would be better served by allowing such participation by the interested persons; and

(B) That there are compelling circumstances favoring such participation by the interested person.

(g) *Hearings: Certification of issues.* Whenever a formal hearing is conducted pursuant to this section, the Administrator will certify the issues for decision to the judge and the formal hearing will be limited to those issues.

(h) *Obligation to submit evidence and raise issues before a formal hearing is held.* No party or interested person may submit evidence which was not submitted previously for the administrative record as part of the comment on the application for issuance, transfer or renewal of a license, unless the judge finds that good cause exists for the failure to submit it. Good cause includes the case where the person seeking to raise the new issues or introduce new information shows that the person could not reasonably have ascertained the issues or made the information available at a prior stage in the administrative process; or that the person could not have reasonably anticipated the relevance or materiality of the information sought to be introduced.

(i) *Conferences.* (1) At any time the judge considers appropriate, he may, upon his own motion or the motion of

any party or interested person, direct the parties and interested persons, or their attorneys to meet (in person, by telephone conference call, or otherwise) in a conference to consider:

(i) Simplification of the issues;

(ii) Settlements in appropriate cases;

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

(iv) Exchange of evidence, witness lists, and summaries of expected testimony;

(v) Limitation of the number of witnesses; and

(vi) Such other matters as may tend to expedite the disposition of the proceedings.

(2) The record will show how the matters were disposed of by order and by agreement in such conferences.

(j) *Hearings: Appearance and presentation of evidence.* (1) *Representative.* A party or interested person may appear at a hearing under this Part in person, by attorney, or by other representative.

(2) *Failure to appear.* Failure of a party to appear at a hearing:

(i) Constitutes waiver of the right to a hearing under this section;

(ii) Constitutes consent of the party to the making of a decision on the record of the hearing; but

(iii) Will not be deemed to be a waiver of the right to be served with a copy of the Judge's decision.

(3) *Evidence.* (i) The order of presentation of evidence will be at the judge's discretion.

(ii) The testimony of witnesses will be upon oath or affirmation administered by the judge and will be subject to such cross-examination as may be required for a full and true disclosure of the facts. The formal rules of evidence do not apply, but the judge will exclude evidence which is immaterial, irrelevant, non-probative, or unduly repetitous. Hearsay evidence is not inadmissable as such.

(iii) If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, the party must state briefly the grounds for such objections. Rulings on each objection will appear in the record.

(iv) Formal exception to an adverse ruling is not required.

(v) At any time during the proceedings, the judge may require a party or a witness to state his position on any issue, and the theory in support of such position.

(vi) Upon the failure of a party or interested person to effect the appearance of a witness or the production of a document or other evidence ruled relevant and necessary to the proceeding, the judge may take appropriate action, as authorized by law.

(4) *Authority of judge to expedite adjudication.* To prevent unnecessary delays or an unnecessarily large record, the judge may:

(i) Limit the number of witnesses whose testimony may be cumulative;

(ii) Strike argumentative, repetitious, cumulative, immaterial, nonprobative, or irrelevant evidence;

(iii) Take necessary and proper measures to prevent argumentative, repetitious, or cumulative cross-examination; and

(iv) Impose such time limitations on arguments as the judge determines appropriate, having regard for the volume of the evidence and the importance and complexity of the issues involved.

(5) *Official notice.* Official notice may be taken of any matter not appearing in evidence in the record, which is among the traditional matters of judicial notice, or concerning which the Department of Commerce, by reason of its functions, is deemed to be expert, or of a non-privileged document required by law to be filed with, prepared or published by a government body, or of any reasonably available public document. The parties will be given adequate notice, at the hearing or otherwise before the judge's decision, of the matters so noticed, and upon timely request by a party will be given reasonable opportunity to show the contrary.

(6) *Record.* (i) The judge or the Administrator will arrange for a verbatim tape or other record of any oral hearing proceedings. An official transcript of the proceedings will be prepared and copies may be obtained upon written request filed with the reporter and upon payment of the fees at the rate provided in the agreement with the reporter.

(ii) The official transcript, exhibits, briefs, requests and other documents and papers filed will constitute the exclusive record for decision on the issues concerning which the hearing was held.

(iii) The record developed in any hearing held pursuant to § 1001.350 of this Part will be part of the basis for the Administrator's decision to approve or deny the license.

(k) *Interlocutory Appeals.* (1) At the request of a party or on the judge's own motion, the judge may certify to the Administrator for review a ruling which does not finally dispose of the proceeding if the judge determines that such a ruling involves a controlling question of law and that an immediate appeal therefrom may materially advance the ultimate disposition of the matter.

(2) Upon certification by the judge of an interlocutory ruling for review, the Administrator will expeditiously decide the matter, taking into account any briefs in this respect filed by the parties within 10 days after certification. The Administrator's order on an interlocutory appeal will not be considered the final decision of the Administrator except by operation of other provisions in this section.

(3) No interlocutory appeal will lie as to any ruling not certified to the Administrator by the judge. Objections to rulings not certified to the Administrator by the judge will be a part of the record and will be subject to review at the same time and in the same manner as the Administrator's review of the recommended or initial decision of the judge.

(l) *Decision.* (1) *Proposed findings of fact.* The judge will allow each party to file with the judge proposed findings of fact together with a supporting brief expressing the reasons for such proposals. Such proposals and briefs must be filed within 10 days after the hearing or within such additional time as the judge may allow. Such proposals and briefs must refer to all portions of the record and to all authorities relied upon in support of each proposal. Reply briefs must be submitted within 10 days after receipt of the proposed findings to which they respond, unless the judge allows additional time.

(2) *Recomended decision.* As soon as practicable, but normally not later than 30 days after the conclusion of the formal hearing, the judge will evaluate the record of the formal hearing and prepare and file a recommended decision with the Administrator. The formal hearing must be concluded within 240 days after the publication of the notice of application pursuant to § 1001.290(a) of this Part.

(3) *Final decision.* (i) As soon as practicable, but normally not later than 30 days after receipt of the recommended decision, the Administrator will issue a final decision. The final decision may accept or reject all or part of the recommended decision.

(ii) The Administrator will base the final decision upon the record already made, except that the Administrator may issue orders:

(A) Specifying the filing of supplemental briefs; or

(B) Remanding the matter to a judge for the receipt of further evidence, or for

other assistance in the determination of the matter.

(iii) With respect to hearings to resolve material issues of fact pursuant to § 1001.350 of this Part, the Administrator may defer announcement of his final decision on the findings of fact until the time he takes final action on the issuance, transfer or renewal of a license.

(m) *Motions and requests.* Motions and requests must be filed in writing with the judge or must be stated orally and made part of the hearing record. Each motion or request must state the particular order, ruling, or action desired, and the grounds therefor.

(n) *Witnesses and fees.* Witnesses subpoenaed will be paid the same fees and mileage, and in the same manner, as are paid for like services in the District Court of the United States for the district in which the hearing is located.

(o) *Depositions.* (1) Any party desiring to take the deposition of a witness shall make application in writing to the judge, setting forth the reasons why such deposition should be taken; the time when, the place where, and the name and mailing address of the person before whom the deposition is requested to be taken; the name and address of each witness to appear for deposition; and the subject matter concerning which each witness is expected to testify.

(2) Depositions may be taken orally or upon written interrogatories before any person designated by the judge.

(3) Such notice as the judge shall order will be given for the taking of a deposition, but this ordinarily will not be less than 5 days' written notice when the deposition is to be taken within the United States and ordinarily will not be less than 20 days' written notice when the deposition is to be taken elsewhere.

(4) Each witness testifying upon deposition will be sworn and any party will have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, will be reduced to writing, read to the witness, signed by the witness unless waived, and certified by the person presiding. Thereafter, the person presiding will deliver or mail a copy of the document to each party. Subject to such objection to the questions and answers as were noted at the time of taking the deposition which would be valid were the witness personally present and testifying, such despoition may be read and offered in evidence by any party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof.

(p) *Subpoenas.* A party may request the judge to issue or the judge on the judge's own motion may issue a subpoena for the attendance and testimony of witnesses and for the production of documentary or other evidence. Applications for subpoenas must be in writing, and must specify the general relevance and reasonable scope of the evidence sought to be produced.

(q) *Extension of time.* The time for the filing of any document under this section may be extended by the judge if:

(1) The request for the extension of time is made before or on the final date allowed for the filing; and

(2) The judge, after giving written or oral notice to and considering the views of all other parties (when practicable), determines that there is good reason for the extension.

(r) *Filing, submission and service of documents.* (1) Whenever the regulations in this subpart or in an order issued hereunder require a document to be filed within a certain period of time, such document will be considered filed as of the date of the postmark, if mailed, or (if not mailed) as of the date actually delivered to the office where filing is required. Time periods will begin to run on the day following the date of the document or event which begins the time period.

(2) All submissions must be signed by the person making the submission, or by the person's attorney or other authorized agent or representative.

(3) Service of a document must be made by delivering or mailing a copy of the document to the known address of the person being served.

(4) Whenever the regulations in this Subpart require service of a document, such service may effectively be made on the agent for the service of process or on the attorney for the person to be served.

(5) Refusal of service of a document by the person to be served, his agent, or attorney, will be deemed effective service of the document as of the date of such refusal.

(6) A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of the service, will be proof of the service.

(s) *Computation of time.* Saturdays, Sundays and Federal Government holidays will be included in computing the time period allowed for filing any document under this Part, but when such time period expires on such a day, such time period will be extended to include the next following Federal Government work day. Also, with respect to documents filed with the Federal Government, filing periods expire at the close of business for the office specified on the day specified.

§ 1001.570 Ex parte communications.

(a) *"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, but does not include requests for status reports.

(b) Except to the extent required for disposition of *ex parte* matters as authorized by law, upon assignment of a matter to an administrative law judge and until the final decision of the Administrator is effective under these regulations, no *ex parte* communication relevant to the merits of the proceeding shall be made, or knowingly caused to be made:

(1) By the judge or by an agency employee involved in the decisional process of the proceeding to any interested person outside NOAA; or

(2) By an interested person outside NOAA to the judge or to any agency employee involved in the decisional process of the proceeding.

(c) The judge may not consult any person or party on the substance of the matter in issue unless on notice and opportunity for all parties to participate.

(d) An agency employee or judge who makes or receives a prohibited communication must place in the hearing record the communication and any response thereto, and the judge, or Administrator, as appropriate, may take action in this respect consistent with these regulations, the Act, and 5 U.S.C. sections 556(d) and 557(d).

(e) This section does not apply to communications to or from the agency representative. However, except in rulemaking proceedings under the Act and these regulations and in proceedings determining applications for initial licenses, the agency representative may not participate or advise in the initial or recommended decision of the judge or the Administrator's review thereof except as witness or counsel in the proceeding in accordance with these regulations.

(f) This section will not apply to communications concerning national defense or foreign policy matters. Any communications:

(1) On national defense or foreign policy matters to or from an agency employee; or

(2) From employees of the United States Government involving intergovernmental negotiations;

are permitted if the communicator's position with respect to those matters cannot otherwise be fairly presented for reasons of foreign policy or national defense.

Subpart F—Enforcement Procedures

§ 1001.580 General.

(a) *Purpose and scope.* (1) Section 302 of the Act authorizes the Administrator to assess a civil penalty, in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation, against any person found to have committed an act prohibited by section 301 of the Act. Each day of a continuing violation is a separate offense.

(2) Section 111 of the Act describes the circumstances under which the Administrator may suspend or terminate a license; or seek revocation of a license for violation of the Act, or of any regulation, restriction or condition issued under the Act.

(3) Section 302 of the Act authorizes the Administrator to issue orders directing any person subject to section 301 of the Act to comply with the Act, or any rule, regulation, order, license, term, or condition issued under the Act. Section 302 also authorizes the Administrator to bring a civil action for appropriate relief, including temporary or permanent injunctive relief, to halt or redress any such violation.

(4) Section 110 of the Act authorizes the Administrator to place observers on ocean thermal energy conversion facilities and plantships licensed under the Act to monitor compliance and environmental effects of activities under the license.

(5) Section 114 of the Act describes the circumstances under which a person may bring a civil action against an alleged violator or against the Administrator for failure to perform a nondiscretionary duty, and directs the Administrator to issue regulations governing procedures prerequisite to such a civil action.

(6) The regulations in this Subpart provide uniform rules and procedures for the assessment of civil penalties (sections 1001.590 and 1001.600); establishment of license sanctions (section 1001.610); issuance of compliance orders (section 1001.620); placement of observers on or in OTEC facilities and plantships (section 1001.630); and the giving of advance notice of private civil actions (section 1001.640).

(b) *Filing and service of documents.* (1) Filing and service of documents required by this Subpart shall be in accordance with § 1001.560 (r) and (s) of Subpart E. The method for computing time periods set forth in § 1001.560 (r) and (s) also applies to any action or event, such as payment of a civil penalty, required by this Subpart to take place within a specified period of time.

(2) If an oral or written request is made to the Administrator within 10 days after the expiration of a time period established in this Subpart for the required filing of documents, the Administrator may permit a late filing if the Administrator finds reasonable grounds for an inability or failure to file within the time period. All extensions will be in writing. Except as provided by this paragraph, by section 1001.590(b) or by order of an administrative law judge, no requests for an extension of time may be granted.

§ 1001.590 Assessment procedure.

(a) *Notice of violation and assessment (NOVA).* (1) A Notice of violation and assessment (NOVA) will be issued by the Administrator and served personally or by registered or certified mail, return receipt requested, upon the person alleged to be subject to a civil penalty (the respondent). A copy of the NOVA will similarly be served upon an affected licensee, or the owner of an affected vessel (defined in paragraph (f) of this section), if the licensee or owner is not the respondent. Although no specific form is prescribed, the NOVA will contain:

(i) A concise statement of the facts believed to show a violation;

(ii) A specific reference to the provisions of the Act, regulation, license, or order allegedly violated;

(iii) The findings and conclusions upon which the Administrator based the proposed assessment; and

(iv) The amount of penalty proposed to be assessed.

(2) With respect to the amount of civil penalty, the Administrator will take into account information available to the agency concerning the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the respondent, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(3) The NOVA may also contain an initial proposal for compromise or settlement of the case. The Administrator may also attach documents which illuminate the facts believed to show a violation. The NOVA will advise of the respondent's rights at that point in the proceeding, and will be accompanied by a copy of regulations governing civil enforcement procedures, this Subpart, and the applicable provisions of Subpart E of this Part.

(b) *Procedures upon receipt of a NOVA.* (1) The respondent shall have 30 days from receipt of the NOVA in which to respond. During this time the respondent may:

(i) Accept the proposed penalty or compromise penalty, if any, by taking the actions specified in the NOVA;

(ii) Seek to have the NOVA amended or modified as prescribed in paragraph (b)(2) of this section;

(iii) Request a hearing, as prescribed in paragraph (b)(5) of this section;

(iv) Take no action, in which case the NOVA becomes final in accordance with paragraph (c) of this section; or

(v) Request an extension of the time allowed to respond to the NOVA under paragraph (b)(3) of this section.

Options (ii), (iii), (iv) and (v) above may also be exercised by the affected licensee or the owner of an affected vessel.

(2) The respondent, the affected licensee, or the owner of an affected vessel, may seek amendment or modification of the NOVA to conform to the facts or law as that person sees them by notifying the Administrator at the telephone number or address specified in the NOVA. Where amendment or modification is sought, the Administrator will either amend the NOVA or decline to amend it, and will so notify the respondent, affected licensee or owner, as appropriate.

(3) The respondent, affected licensee or owner of an affected vessel may, within the 30-day period specified in paragraph (b)(1) of this section, request an extension of time to respond. The Administrator may grant an extension of up to 30 days, unless the Administrator determines that the requestor could, exercising reasonable diligence, prepare a response within the 30-day period specified in paragraph (b)(1) of this section. If the Administrator does not respond to the request within 48 hours of its receipt by the Administrator, the request will be granted automatically for the extension requested, up to a maximum of 30 days. A telephonic response to the request within the 48-hour period will be considered effective responsive, and will be followed by written confirmation.

(4) The Administrator may, for good cause, grant an additional extension beyond the thirty-day period specified in paragraph (b)(3).

(5) If the respondent, the affected licensee, or the owner of an affected vessel wishes a hearing, a written and dated request shall be served, either in person or by certified or registered mail, return receipt requested, at the address specified in the NOVA. The request shall either attach a copy of the relevant NOVA or refer to the relevant NOVA case number.

(6) Any denial, in whole or in part, of any request under this section which is

based upon untimeliness will be made in writing.

(7) The Administrator may, in the Administrator's discretion, treat any communication from a respondent, an affected licensee, or owner of an affected vessel as a request for a hearing under paragraph (b)(5) of this section.

(c) *Final decision.* (1) If no request for hearing is filed under paragraph (b)(5) of this section, the NOVA becomes effective and constitutes the final decision and order of the Administrator on the 30th day after service of the NOVA, or on the last day of any delay period granted under § 1001.580(b)(2) of this Subpart or paragraph (b)(3) or (b)(4) of this section.

(2) If a request for hearing is filed in accordance with paragraph (b)(5) of this section, the date of the final decision will be as provided in Section 1001.600 of this Subpart.

(d) *Payment of final assessment.* (1) Respondent shall make full payment of the civil penalty assessed within 30 days after the date upon which the assessment becomes effective as the final decision and order of the Administrator under paragraph (c) of this section or § 1001.600(k) or, if judicial review of the assessment is initiated under section 302(b) of the Act during the 30 day period, within 10 days after the appropriate court has entered final judgment in favor of the Administrator, unless the court's order provides otherwise. Payment shall be made by mailing or delivering to the Administrator at the address specified in the NOVA a check or money order made payable in United States currency in the amount of the assessment to the "Treasurer of the United States."

(2) Upon any failure to pay the civil penalty assessed, the Administrator may request the Attorney General of the United States to recover the amount assessed in any appropriate district court of the United States, or may take action under paragraph (e) of this section. In any court action under this paragraph (d)(2), the validity and appropriateness of the final order imposing the civil penalty is not subject to review.

(e) *Compromise of civil penalty.* (1) In the Administrator's sole discretion, the Administrator may compromise, modify, remit, or mitigate, with or without conditions, any civil penalty which has been imposed under this Subpart, or which is subject to imposition.

(2) The compromise authority of the Administrator under this paragraph (e) is in addition to any similar authority provided in the Act or in these regulations, and may be exercised either upon the initiative of the Administrator or in response to a request by the alleged violator or other interested person.

(3) If the Administrator acts under this paragraph (e) prior to issuing a NOVA or after a final assessment becomes payable under paragraph (d) of this section, the Administrator will prepare a document indicating the action taken and citing this paragraph and section 302(c) of the Act as authority. Once the case has been assigned for hearing under section 1001.600(a), the Administrator will, except in unusual circumstances, defer any compromise action under this paragraph (e) until the administrative law judge has rendered an initial decision in the matter. Neither the existence of the compromise authority of the Administrator under this paragraph (e) nor the Administrator's exercise thereof at any time changes the date upon which an assessment becomes final or payable.

(f) *Application of this section to licensees and vessel owners.* (1) This section applies to affected licensees. "Affected licensee" means the holder of a license issued under this Part which license may be subject to sanctions as a result of civil penalty proceedings under this Subpart.

(2) This section also applies to owners of affected vessels. "Affected vessel" means any vessel of the United States that, under section 302(e) of the Act, may be liable *in rem* for any civil penalty assessed as a result of civil penalty proceedings under this Subpart.

§ 1001.600 Hearing and appeal procedures.

(a) *Beginning of hearing procedures.* Following receipt of a written request for hearing timely filed under § 1001.590(b), the Administrator will begin procedures under this section by forwarding the request, a copy of the NOVA, and any response thereto to the NOAA Office of Administrative Law Judges, which will docket the matter for hearing. Written notice of the referral will be given promptly to the respondent, the affected licensee, and the owner of an affected vessel (if the affected licensee or owner is not the respondent), with the name and address of the attorney representing the Administrator in the proceedings (the agency representative). Thereafter, all pleadings and other documents shall be filed directly with the NOAA Office of Administrative Law Judges, and a copy shall be served on each party.

(b) *Ex parte communications.* Upon assignment of the case to an administrative law judge, and until an assessment or other action on the matter becomes effective under these regulations as the final decision of the Administrator, *ex parte* communications are governed by § 1001.570 of Subpart E of this Part. However, § 1001.570 will not be interpreted to diminish the Administrator's compromise authority under § 1001.590(e) of this Subpart.

(c) *Duties and powers of judge.* (1) To the extent consistent with this Subpart, the administrative law judge has all powers and responsibilities enumerated in § 1001.560(e) of Subpart E of this Part, except that paragraph (e)(2) thereof does not apply. Instead, the judge has the power to rule on a request to participate as a party in the proceedings by allowing, denying, or limiting such participation, except that the respondent, the affected licensee, the owner of an affected vessel and the agency representative will be parties. The judge will, prior to ruling on a request to be admitted as a party, ascertain the views of the other parties and base the ruling on whether the request is from a person who could be directly and adversely affected by the final decision and who may contribute materially to the disposition of the proceedings.

(d) *Participation by parties.* (1) The respondent, the affected licensee, the owner of an affected vessel, the agency representative, and, to the extent permitted by the judge any other party, may appear in person, by counsel or by other representative, and may examine and cross-examine witnesses to the extent required for a full and true disclosure of the facts, present documentary or other evidence in support of that party's case or defense, and conduct oral argument at the close of testimony. This paragraph shall not be interpreted to diminish the powers and duties of the judge provided in paragraph (c) of this section

(2) Failure of any party to appear at the hearing will be deemed a waiver of the right to a hearing and consent to the making of a decision on the record of the hearing.

(e) *Appearance and presentation of evidence.* Appearance and the presentation of evidence are governed by § 1001.560(j) of Subpart E of this Part.

(f) *Settlements.* An agreement by respondent and the agency representative to settle the matter, if filed before an assessment or other action in the case becomes effective under these regulations as the final decision of the Administrator, will terminate the proceedings and vacate any initial or administrative appellate decision issued. However, if settlement is reached before the judge submits the

initial decision and certifies the record under paragraph (i) of this section, the judge may require submission of a copy of the agreement solely to assure that the judge's consideration of the case is completed and to order the matter dismissed on the basis of the agreement.

(g) *Interlocutory appeals.* Appeals of interlocutory rulings by the judge under this subpart are governed by § 1001.560(k) of Subpart E, except that objections to rulings not certified to the Administrator by the judge are subject to review at the same time and in the same manner as the Administrator's review of the initial decision of the judge upon any appeal therefrom under paragraph (j) of this section.

(h) *Proposed findings and conclusions.* Unless a different schedule is established in the discretion of the judge, the parties must file any proposed findings of fact and conclusions of law, together with supporting briefs, within 30 days after the judge closes the hearing. Any reply briefs must be submitted within 15 days after receipt of the proposed findings and conclusions to which they respond, unless the judge sets a different schedule.

(i) *Initial decision.* (1) After expiration of the period provided in paragraph (h) of this section for filing reply briefs, the judge will render a written initial decision upon the record in the case, setting forth:

(i) Findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record. In determining the amount of a penalty assessment, the judge is not bound by the amount proposed or assessed in the NOVA, or elsewhere, but will decide the matter *de novo*, stating the reasons in view of the factors set forth in section 302(c)(2) of the Act and § 1001.590(a)(2) of this Subpart;

(ii) Reasons for the rejection of findings and conclusions proposed by the parties;

(iii) A statement of facts officially noticed and relied upon in the decision, if the parties have not previously been advised of such notice; and

(iv) Such other matters as the judge considers appropriate, including recommendations, if any, regarding license sanctions and forfeiture actions.

(2) The judge will submit the initial decision to the Administrator, serve copies on the parties, and transmit to the Administrator the record of the proceeding together with a certification to the effect that, to the best of the judge's knowledge and belief, the record is a complete and accurate compilation of all evidence and other documents in the proceeding, except in such particulars as are specified.

(j) *Appeals.* (1) Any party may appeal the initial decision of the judge by filing a notice of appeal with the Administrator within 45 days after the date of the initial decision. The notice of appeal shall concisely state such exceptions as the appellant takes to the initial decision and shall contain citations to the record or other authority relied upon. The appellant shall serve a copy of the notice of appeal on each other party.

(2)(i) The Administrator will decide the appeal upon the record already made, except that the Administrator may issue orders:

(A) Specifying the filing of supplemental briefs; or

(B) Remanding the matter to an administrative law judge for receipt of further evidence or other assistance in the determination of the matter.

(ii) The decision of the Administrator will be in writing and will state the reasons for accepting or rejecting the exceptions taken by the appellant. To the extent the Administrator's decision is silent as to a material issue of fact, law, or discretion presented on the record, the decision will be deemed to adopt the findings and conclusions thereon, and the reasons or basis therefor, contained in the initial decision.

(k) *Final decision.* (1) Unless a notice of appeal is timely filed in accordance with paragraph (j) of this section, the initial decision of the judge becomes effective and constitutes the final decision and order of the Administrator on the 45th calendar day after the date it is rendered.

(2) If a notice of appeal is timely filed as provided in paragraph (j) of this section, the Administrator's decision becomes effective and constitutes the final decision and order of the Administrator on the date the decision is issued, or as otherwise specified by the Administrator in the decision.

(3) Payment of any assessment which becomes final under this paragraph (k) shall be made in accordance with § 1001.590(d) of this Part.

(l) *Application of this section to licensees and vessel owners.* The provisions of this section apply to affected licensees and owners of affected vessels, as defined in § 1001.590(f).

§ 1001.610 License sanctions.

(a) *Application of section.* This section governs the suspension, revocation, termination or modification of any license issued under this Part for failure to comply with any provision of the Act, or any regulation, order, license condition or restriction issued under the Act.

(b) *Basis for sanctions.* (1) The Administrator may act under this section with respect to a license issued under the Act, if:

(i) The terms of the license call for suspension or termination of the license upon the occurrence of a fixed or agreed upon condition, event or time and the Administrator determines that such condition, event, or time has occurred; or

(ii) The Administrator determines in accordance with paragraph (d)(1)(ii) of this section that immediate suspension of the license, or immediate suspension or modification of any activity under the license, is necessary; or

(iii) An appropriate court issues an order of suspension or revocation with respect to the license.

(2) The Administrator may suspend a license in accordance with paragraph (b)(1) and the other provisions of this section, on the basis that the licensee has failed to pay any penalty assessed, or fine imposed, under section 302 of the Act. The license may be reinstated by affirmative order of the Administrator upon receipt, as prescribed in paragraph (d) of this section, of full payment of the penalty assessed, together with interest thereon at the annual rate provided by current regulations of the Department of the Treasury as to late payments of amounts due the Government, computed from the date payment first became overdue, or upon full payment, in accordance with any applicable court order, of the fine imposed.

(c) *Nature of sanctions.* In the Administrator's discretion and subject to the requirements of this section, the Administrator may take any of the following actions or combinations thereof with respect to a license issued under the Act:

(1) Revoke the license;

(2) Suspend the license or any activity under the license, either for a specified period of time or until certain stated requirements are met, or both;

(3) Modify the license, for example by imposing additional conditions and restrictions in order to aid future enforcement efforts; or

(4) Terminate the license in accordance with the provisions of this Subpart.

(d) *Notice of license sanction.* (1) If the Administrator determines, on the basis of available information, that the licensee is not in compliance with any applicable provision of the Act, or any regulation, order or any license condition or restriction issued under the

Act, the Administrator may issue the licensee a notice of license sanction (NOLS) stating that the Administrator has requested the Attorney General to file an action in an appropriate United States district court, seeking a sanction against the license involved. The NOLS will state the sanction proposed by the Administrator to be imposed as provided in paragraph (c) of this section, and the basis therefor and will advise that issuance of the NOLS does not preclude the Administrator from taking, at any time, any other enforcement action under section 302 or any other applicable provision of the Act.

(i) If the Administrator expects to seek revocation of the license, the NOLS will advise that:

(A) If the violation set forth in the NOLS continues for a period of 30 days from the date of issuing the NOLS, the Administrator may request the Attorney General to seek revocation of the license in an appropriate United States district court;

(B) The licensee may, within 30 days after the date of issuing the NOLS, submit to the Administrator evidence of compliance, and

(C) If the Administrator determines, on the basis of evidence submitted during the 30 day period, that the licensee has complied, the Administrator will not seek revocation of the license.

(ii) The Administrator may immediately suspend the license or suspend or modify any activity under the license pending completion of judicial proceedings under section 111(a) of the Act if the Administrator finds, and issues an emergency order summarizing the finding and the basis therefor, that such action is necessary to:

(A) Protect public health and safety; or

(B) Eliminate imminent and substantial danger to the environment.

(iii) If the Administrator acts under paragraph (d)(1)(ii) of this section, the Administrator will serve the emergency order in the manner described in paragraph (d)(4) of this section, and will seek to expedite judicial proceedings.

(iv) The licensee may request the Administrator to review any emergency order issued under paragraph (d)(1)(ii) of this section. The Administrator will determine whether any review of the emergency order should be granted, and whether any review granted will be in the form of an informal or formal hearing. The Administrator's granting of a review will not change the effective date of the emergency order unless the Administrator specifies such a change in writing when granting the review of the emergency order.

(2) If the Administrator determines, on the basis of available information, that the licensee is not in compliance with the license, and if the license provides for a license sanction on the basis of such failure to comply, the Administrator may issue a NOLS setting forth the sanction to be imposed and the basis therefor. If an opportunity for a hearing is provided by paragraph (e) of this section, the NOLS will advise that the licensee has 30 days from receipt of the notice in which to request or waive a hearing. The notice will further state the effective date of the sanction, which will not be earlier than 30 days after the date of the notice except as provided in paragraph (d)(1)(ii) of this section or in the license. If a hearing opportunity is provided and a hearing is requested in a timely manner, the sanction becomes effective under paragraph (h) of this section.

(3) If a United States district court issues an order calling for a license sanction, the Administrator will issue a NOLS setting forth the sanction to be imposed and the effective date of the sanction. The NOLS will advise that an appeal of the district court's order will not stay the taking effect of the sanction, unless provided otherwise by the court.

(4) The NOLS will be served personally or by registered or certified mail, return receipt requested, on the licensee.

(e) *Opportunity for hearing on an NOLS issued under paragraph (d)(2).* (1) The licensee has 30 days from receipt of the NOLS to request a hearing with respect to an NOLS issued under paragraph (d)(2) of this section. However, no hearing is required with respect to matters previously adjudicated in an administrative or judicial hearing in which the licensee has had an opportunity to participate.

(2) If the licensee wishes a hearing, a written and dated request shall be served on the Administrator either in person or by certified or registered mail, return receipt requested, at the address specified in the NOLS. The request shall either attach a copy of the relevent NOLS or refer to the relevent NOAA case number.

(3) If no hearing is required by or requested under paragraph (e)(1) of this section, the Administrator may nonetheless order a hearing if the Administrator determines that there are material issues of fact, law or equity to be further explored.

(4) The Administrator may apply to the administrative law judge for an interim order suspending the license, or suspending or modifying any activity under the license, pending completion of proceedings under this section if the Administrator serves prior notice of the application for an interim order on the licensee in the manner described in paragraph (d)(4) of this section. The judge may issue an interim order consistent with the purposes of the Act, unless preliminary evidence presented to the judge indicates a likelihood that the licensee will prevail in the matters at issue.

(5) If the license provides an effective date for the sanction, a request for hearing will not delay the effectiveness of the sanction, except to the extent extended by the Administrator for good cause shown.

(f) *Hearing and initial decision.* If a timely request for a hearing under paragraph (e)(1) of this section is received or the Administrator orders a hearing under paragraph (e)(3) of this section, the Administrator will appoint a hearing officer to hear the matter and render an initial decision.

(g) *Appeals.* (1) Any party may appeal the initial decision of the hearing officer by filing a notice of appeal with the Administrator within 30 days after the date of the initial decision. The notice of appeal shall concisely state such exceptions as the appellant takes to the initial decision and shall contain citations to the record or other authority relied upon. The appellant shall serve a copy of the notice of appeal on each other party.

(2)(i) The Administrator will decide the appeal upon the record already made, except that the Administrator may issue orders: (A) Specifying the filing of supplemental briefs; or

(B) Remanding the matter to a hearing officer for the receipt of further evidence, or other assistance in the determination of the matter.

(ii) The decision of the Administrator will be in writing and will state the reasons for accepting or rejecting the exceptions taken by the appellant. To the extent the Administrator's decision is silent as to a material issue of fact, law, or discretion at issue in the hearing, the decision will be deemed to adopt the findings and conclusions, and the reasons and basis therefor, contained in the initial decision.

(h) *Final decision.* (1) Unless a notice of appeal is timely filed in accordance with paragraph (g) of this section, the initial decision of the hearing officer becomes effective and constitutes the final decision and order of the Administrator on the 30th calendar day after the date it is rendered.

(2) If a notice of appeal is timely filed as provided in paragraph (g) of this

section, the Administrator's decision becomes effective and constitutes the final decision and order of the Administrator on the date it is issued, or as otherwise specified by the Administrator in the decision. The Administrator will serve notice of the decision on the licensee in the manner described in paragraph (d)(4) of this section.

§ 1001.620 Compliance Orders.

(a) The Administrator may issue a compliance order, served personally or by registered or certified mail, return receipt requested, to any person subject to section 301 of the Act who is found by the Administrator, on the basis of available information, to be in violation of the Act, or any regulation, order, license term or condition issued under the Act or this Part. Although no specific form is prescribed, the compliance order will contain:

(1) A concise statement of the facts determined to show a violation;

(2) A specific reference to the provisions of the Act, regulation, order or license determined to be violated; and

(3) The time period in which the person shall comply with the order.

(b) With respect to the time period for compliance with the order, the Administrator will specify a reasonable time period, up to 30 days, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(c) The compliance order will advise the person to whom it is issued that:

(1) Failure to comply within the specified time period will subject that person to adverse enforcement action under the Act (in addition to any such action already begun); and

(2) The order may be challenged during any enforcement proceeding brought under the Act as a result of the violation specified in the order or an alleged failure to comply with the order.

(d) The person to whom a compliance order is issued may seek amendment or modification of the order to conform to the facts or law as that person sees them by notifying the Administrator at the telephone number or address specified in the order. The Administrator will either amend the order, or decline to amend it, and will so notify the person concerned.

(e) Evidence of compliance with an order issued under this section shall be presented to the Administor in writing within the time period specified in the order. The Administrator will, as soon as practicable, determine whether or not there is timely compliance with the order, and advise the person concerned of the determination.

(f) Issuing a compliance order under this section, or complying with such an order, does not preclude other enforcement proceedings under the Act or this Part if such proceedings serve the purposes of the Act, except if expressly so stated in the order, or as provided in section 111 of the Act with respect to license revocation.

§ 1001.630 Observers.

(a) Each licensee shall allow, at such times and to such extent as the Administrator deems reasonable and necessary, an observer duly authorized by the Administrator to board, enter or accompany any OTEC facility or plantship to which a license applies, for the purposes of observing and reporting on:

(1) The effectiveness of the terms, conditions, and restrictions of the license;

(2) Compliance with the Act, regulations and orders issued under the Act and the license terms and conditions; and

(3) The environmental and other effects of the licensee's activities under the license.

(b) The Administrator may notify a licensee, by certified or registered mail, return receipt requested, that the Administrator plans to place an observer aboard the OTEC facility or plantship to which the license applies.

(c) A licensee who is notified under paragraph (b) of this section that he is required to carry an observer aboard the OTEC facility or plantship shall promptly notify the official specified in the Administrator's notice, regarding the licensee's suggested time and method for transporting the observer to the OTEC facility or plantship.

(d) Each licensee of an OTEC facility or plantship to which an observer is assigned shall:

(1) Allow the observer access to and use of the OTEC facility or plantship's communications equipment and personnel when the observer deems such access necessary for the transmission and receipt of messages;

(2) Allow the observer access to and use of the OTEC facility or plantship's navigation equipment and personnel (if any) when the observer deems such access necessary to determine the OTEC facility or plantship's location;

(3) Provide all other reasonable cooperation and assistance to enable the observer to carry out his duties; and

(4) Provide accommodations and food to the observer aboard the OTEC facility or plantship which are equivalent to those provided to officers or senior operations personnel of the OTEC facility or plantship.

(e) The Administrator will provide for payment to the licensee of all reasonable costs directly related to the quartering and maintaining of observers on board OTEC facilities or plantships.

(f) To the maximum extent practicable, observation duties will be carried out in a manner that minimizes interference with the licensee's activities under the license.

(g) Licensees and other persons are reminded that the Act (see, for example, sections 301(2) and 301(3)) makes it unlawful for any person subject to section 301 of the Act to interfere with any observer in the performance of the observer's duties.

§ 1001.640 Advance Notice of Civil Actions.

(a) *Actions against alleged violators.* (1) No civil action may be filed in a United States District Court under section 114 of the Act against any person for alleged violation of the Act, or any regulation, or license term or condition issued under the Act, until 60 days after the Administrator and any alleged violator receive written and dated notice of the alleged violation.

(2) The notice shall contain:

(i) A concise statement of the facts believed to show a violation;

(ii) A specific reference to the provisions of the Act, regulation or license allegedly violated; and

(iii) Any documentary or other evidence of the alleged violation.

(b) *Actions against the Administrator.* (1) No civil action may be filed in a United States District Court under section 114 of the Act against the Administrator for an alleged failure to perform any act or duty under the Act which is not discretionary until 60 days after the Administrator receives a written and dated notice of intent to file the action.

(2) The notice shall contain:

(i) A specific reference to the provisions of the Act, regulations or license believed to require the Administrator to perform a nondiscretionary act or duty;

(ii) A precise description of the act or duty believed to be required by such provisions;

(iii) A concise statement of the facts believed to show a failure to perform the act or duty; and

(iv) Any documentary or other evidence of the alleged failure to perform the act or duty.

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March 30, 1981

Part III

Department of Energy

Economic Regulatory Administration

Petroleum Substitute Entitlements Provisions

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-81-02]

Petroleum Substitute Entitlements Provisions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOT) is proposing to amend the Mandatory Petroleum Allocation Regulations (10 CFR Part 211) to provide that no entitlements shall be issuable to any firm with respect to a petroleum substitute for periods prior to January 28, 1981, unless prior to that date the firm satisfied all filing requirements for automatic inclusion in the entitlements program under § 211.67(a)(5) or had been designated by the ERA as an eligible recipient of entitlement benefits in an order issued pursuant to § 205.95 of 10 CFR Part 205.

DATES: Proposed effective date: Date of issuance of this notice; Comments by April 29, 1981; Requests to speak at hearing by April 9, 1981, 4:30 p.m.; Hearing date: April 15, 1981, 9:30 a.m.

ADDRESSES: Comments and requests to speak at hearing to: Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-81-02, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Karene Walker (Office of Public Hearings Management), Economic Regulatory Administration, Room B-210, 2000 M Street, NW., Washington, D.C. 20461 (202) 653-3986;
William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461 (202) 653-4055;
William Funk or Jack Kendall (Office of General Counsel), U.S. Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-6736 (Funk); 252-6739 (Kendall).

SUPPLEMENTARY INFORMATION:

I. Background

Section 211.67(a)(5) of the allocation regulations provides for inclusion in the domestic crude oil entitlements program of fuels meeting the definition of the term "petroleum substitute" set forth in § 211.62. The petroleum substitute entitlements provisions provide for automatic inclusion in the entitlements program of ethyl alcohol derived from biomass when mixed with gasoline for use as fuel, solid municipal waste and solid derivatives thereof use as fuel, shale oil used in a refinery or for non-refining purposes, and methane derived from municipal sewage or landfills. The regulations also provide on a case-by-case basis for inclusion in the entitlements program of solid fuels derived from non-municipal solid waste, as well as gaseous fuels derived from any solid-waste sources, and liquid fuels derived from biomass, coal, and tar sands. Applications for inclusion in the entitlements program of those petroleum substitutes requiring case-by-case determinations must be reviewed under the ERA's published Guidelines setting forth the eligibility criteria applicable to those fuels (44 FR 6895, February 5, 1979).

Since May 1978, when the original petroleum substitute entitlements provisions became effective, one hundred twenty-one firms and other entities have qualified for automatic inclusion in the entitlements program. To date, the ERA has issued only seven decisions and orders to applicants subject to case-by-case review under the Guidelines. Of these, four approved the designation of the fuel as a petroleum substitute, and three denied the application.

On January 28, 1981, the President issued Executive Order 12287 ("E.O. 12287," 46 FR 9909, January 30, 1981), effective 12:01 a.m., January 28, 1981, exempting all crude oil and refined petroleum products from the price and allocation regulations adopted pursuant to the Emergency Petroleum Allocation Act of 1973 (EPAA, 15 U.S.C. § 751, *et seq.*, Pub. L. 93-159, as amended). In light of this decontrol, the President directed the Secretary of Energy promptly to revoke the regulations made unnecessary by the Order.

Since January 27, 1981, the ERA has received initial or necessary supplemental submissions from forty-one firms with respect to admission to the entitlements program under the automatic provisions of § 211.67(a)(5). In addition, at the present time, over one hundred sixty applications are being processed under the case-by-case provisions. A majority of these case-by-case applications were made more than six months ago, and several are more than a year old.

Those firms eligible to receive entitlements under the automatic provisions have in the past been issued entitlements for each month since May 1979 that they qualified for participation in the program, no matter when their submissions for entry into the program were received.

The regulations and Guidelines governing the evaluation of applications for case-by-case consideration do not specify any particular time from which entitlements shall be issuable once an application is approved. However, when the first decision and order was issued designating a fuel as a petroleum substitute on the case-by-case basis, the ERA granted the entitlements benefits retroactively to the first month following the date of application rather than prospectively from the date of approval.

II. Proposal

As was made clear in the preambles to the rules creating the petroleum substitutes program, (43 FR 21429, May 18, 1978; 44 FR 63515, November 5, 1979; 44 FR 66183, November 19, 1979), the purpose of the petroleum substitute entitlements provisions was to offset disincentives to the use of petroleum substitutes, which disincentives were themselves created by the price controls on crude oil and controlled petroleum products. The purpose was not to reward persons for past actions or to make corrections for disincentives suffered in the past. Had these been the purposes, the rule itself would have to have been retroactive. Nor was the program intended to be a subsidy for petroleum substitutes. Rather the purpose of the program was, so long as petroleum substitutes were disadvantaged by competition against petroleum products whose prices were restrained by price controls, to lessen or remove that competitive disadvantage.

When the President removed remaining petroleum price controls on January 28, 1981, the competitive disadvantage that occasioned the need for the petroleum substitute entitlements provisions was removed.

We had intended to process under the Guidelines those applications for designations as petroleum substitutes that were received on or before December 31, 1980, on the basis that those persons could still receive entitlements for all months after the date of application through January 27, 1981. Given past practice, we believed that it might be inequitable to fail to complete action on these applications

solely by reason of the end of controls. In addition, since the provisions of § 211.67(a)(5) relating to automatic inclusion state merely that entitlements shall be issuable for each month since May 1979, we initially determined to continue processing even those filings for inclusion in the program under the automatic provisions that were not complete until after January 27, 1981.

Several considerations, however, have led us to reassess our initial positions regarding the continued processing of petroleum substitute applications. First, the President, by immediately decontrolling petroleum and directing the Secretary of Energy promptly to revoke the regulations made unnecessary by the Order, expressed the intent to end as quickly as possible all elements of the price and allocation programs. However, we are continuing to receive new submissions and applications seeking entitlements under both the automatic and case-by-case aspects of the program for petroleum substitutes for periods prior to January 28, 1981. Over one hundred sixty applications are currently being processed under the case-by-case Guidelines. As indicated above, in the almost one year and a half that the case-by-case determination process has been in effect only seven decisions and orders have been issued, despite DOE's efforts to expedite and regularize the case-handling procedures. We believe that a protracted effort to process the remaining applications under the current petroleum substitute entitlements provisions would be inconsistent with the spirit of E.O. 12287.

However, even if the processing of pending applications could be sufficiently expedited, we have tentatively determined that it would be inconsistent with the original purposes of the petroleum substitute entitlements provisions to include additional petroleum substitute firms in the program—under either the automatic or case-by-case provisions—for past periods where there is no longer any prospective program. As noted above, the practice, unspecified in the regulations, of granting petroleum substitute entitlements under the Guidelines retroactively to the month following the date of application was undertaken at a time when the designation of a fuel as a petroleum substitute had prospective effect. The same was true with respect to petroleum substitutes that were granted entitlements under the automatic provisions for periods as far back as June 1979 even though their submissions may not have been received until much later. That is, in the past inclusion in the program has enabled a petroleum substitute to receive entitlements in the future to mitigate the *future* disincentives caused by the DOE's controls on the prices of crude oil and certain petroleum products. The retroactive grant of entitlements was ancillary to the prospective grant of entitlements that was the purpose of the program. Inasmuch as there is no further entitlements program for future periods and no further regulatory disincentive to petroleum substitutes, it would appear that the ancillary, retroactive grant of entitlements is no longer appropriate.

Finally, separate and distinct from considerations regarding the decontrol of crude oil and petroleum products, we have determined that the standards and criteria governing the qualification of alternate fuels as petroleum substitutes under the case-by-case determination have not best furthered the purposes of the EPAA. On the one hand, while paragraph 5(f) of the Guidelines has specified that applicants must demonstrate how, when, and the circumstances under which the petroleum substitute will be substituted for crude oil or a petroleum product, applicants have responded in varying manners to this requirement. This has resulted in some firms having their applications denied for failure to demonstrate substitution, although it is entirely possible that such firms could have qualified had they properly demonstrated substitution. Other firms, often the more sophisticated, have monitored decisions and orders and have supplemented their applications with additional information concerning substitution. Thus, by the happenstance of timing, some firms have received information and guidance not available to other firms. On the other hand, even when substitution has been demonstrated, the existing criteria for designation and the number of entitlements granted have not been adequately tailored to eliminating the regulatory disincentives to the use of petroleum substitutes while at the same time not overly burdening refiners and, consequently, consumers of petroleum products. For example, need for entitlements has not been a criterion for approval. *See Arizona Chemical Co.*, Dt. No. ERA-APS-78-5 (February 28, 1980). Thus, many firms could qualify for petroleum substitute entitlements although historically they have used substitutes and the controlled price of crude oil and petroleum products has not meaningfully retarded their use of substitutes. This is especially true where the firm essentially burns waste material generated by its primary industrial activity. Another example is the grant of entitlements on the basis of the BTU equivalence between crude oil and the substitutes consumed. *See* § 211.67(a)(5) (F) & (H). This essentially rewards inefficiency, since entitlements are earned not on the basis of the BTU's of the petroleum product which has been replaced but on the basis of the BTU's of the alternate fuel, and the more BTUs of alternate fuel that is necessary to substitute for a barrel of a petroleum product, the more entitlements that are earned.

Were controls and the entitlements program to continue indefinitely, we would propose to change the criteria and standards governing the case-by-case program. The elimination of controls and the interest in concluding all aspects of the price and allocation programs as quickly as possible, however, make this approach impracticable. Therefore, we believe it is appropriate to propose the end of the petroleum substitute case-by-case program so that the inequities contained within it are eliminated as soon as possible.

In view of the above considerations, we are proposing to amend the provisions of § 211.67(a)(5) to restrict the issuance of entitlements for petroleum substitutes for periods prior to January 28, 1981, to those firms which prior to that date had properly made all necessary certifications and filings to the ERA under the automatic provisions of § 211.67(a)(5) or had received designation under the Guidelines as an eligible recipient of entitlements.

All properly certified and completed filings requesting automatic inclusion that were received prior to January 28, 1981, have been processed. No firm that had not satisfied all filing requirements as of January 27, 1981, has been issued entitlements. We believe that our decision to discontinue the processing of any filings under the automatic provisions that were not completed prior to January 28, 1981, is appropriate and justified, since those provisions have been in existence since November 1979 and merely require that the applicant certify a limited amount of readily identifiable information. Therefore, firms could readily have complied with those provisions prior to January 28, 1981.

However, we recognize that the many firms that have case-by-case applications that were submitted in a timely manner but which are outstanding at the present time may feel that they are being treated inequitably. This is especially so because four firms,

over the past year, have received retroactive entitlements ancillary to their prospective designations. Moreover, firms with outstanding case-by-case applications may believe that their failure to receive entitlements in a timely fashion, and, if this proposed rule is adopted, to receive them at all, is solely DOE's responsibility, for which they should not be penalized. While recognizing our rule in the delays in question, we do not believe that this consideration provides an adequate basis for continuing the current method of case-by-case determination.

First, firms cannot legitimately claim that they relied on a favorable determination with respect to their application. Nothing in the regulations, Guidelines, or the practice of the Department has suggested that all applications would be granted. A large number of applications, as originally submitted, were deficient, especially in describing how, when, and under what circumstances the substitute fuel would substitute for crude oil or a petroleum product. Some decisions and orders already issued have denied participation in the program because the applicants' submissions did not provide necessary information. Many of the pending applications still reflect such deficiencies.

Moreover, because the regulations never provided for granting the case-by-case entitlements retroactively, but rather the ERA in its discretion adopted that practice while the program continued, the change of circumstances resulting from immediate decontrol is an appropriate consideration to be taken account of in terms of further exercise of that discretionary approach.

Finally, it is our determination that continuation of the petroleum substitutes entitlements program would have a major impact on those firms that have purchased and sold entitlements under the regular entitlements program in past months. This determination is based on preliminary analysis which indicates that the potential dollar amount to be awarded to petroleum substitutes if all pending applications were approved would approach $500 million. Under the adjustment mechanism for entitlements related to past periods (*see* E.O. 12287, Section 3, and notice of proposed rulemaking, 46 FR 15122, March 3, 1981) *someone* would have to purchase whatever entitlements were issued to petroleum substitute makers or consumers. Moreover, while these purchases would relate to prior months in which the substitutes were produced or consumed, the monies would have to be paid in the future by other participants in the entitlements program that would not have expected that their entitlements obligations for the past would be subject to such adjustments. This problem did not occur so long as regular entitlements notices were being published, because under the regulations adjustments for the past were made in the current entitlements notice from the pool of "deemed old oil" in the month of the notice. After March, however, there will be no more regular entitlements notices. Thus, whatever benefits were to be given to petroleum substitute makers would have to be paid by refiners with respect to past entitlements.

In sum, while applicants for petroleum substitute designation under the case-by-case method with applications outstanding may have *expected* their applications to be acted upon after decontrol such that they could receive benefits for periods after their applications were filed but before decontrol, this expectation was not founded upon any regulation. Moreover, whatever their expectation, these applicants could not have any vested interest in petroleum substitute entitlements until their applications were acted upon favorably. Regulatory programs are always subject to change, and program benefits or opportunities expected by individuals but not yet vested or finally granted can be eliminated. Finally, whatever inequity may be claimed in denying retroactive benefits to outstanding applications that might have been acted upon favorably would be outweighed by the change in circumstances and the inequity that would be suffered by other program participants in having to purchase entitlements from petroleum substitute producers and consumers for months long past.

Accordingly, in order to carry out E.O. 12287's mandate to the Secretary of Energy to take such actions as he deems necessary to ensure that the purposes of the Order are effectuated, we are proposing to amend 10 CFR § 211.67 to limit the issuance of entitlements for petroleum substitutes to those firms that prior to January 28, 1981, satisfied all filing requirements for automatic inclusion or were designated by decisions and orders on a case-by-case basis as eligible entitlements recipients. This would be done by amending paragraphs (A), (B), (C), (D), and (E) of § 211.67(a) to specify that the required certification must be made "prior to January 28, 1981," and by amending paragraphs (F), (G), and (H) of § 211.67(a)(5)(i) to add the words "before January 28, 1981" after the word "Chapter" where it appears in each of those paragraphs.

During the pendency of this rulemaking proceeding, we will not issue entitlements to any firm that did not satisfy the filing requirements of the automatic provisions prior to January 28, 1981, or was not designated by a decision and order issued prior to that date as an eligible recipient of entitlements. However, we will continue to process all outstanding case-by-case applications that were completed as of January 28, 1981, and submissions under the automatic provisions. This is to assure that if the decision is reached to continue the program, appropriate actions can be quickly taken.

III. Comment Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data views or arguments with respect to the issues set forth in this notice of proposed rulemaking. All comments should be submitted by 4:30 p.m., e.s.t., of the day specified in the **DATES** section, to the appropriate address indicated in the **ADDRESSES** section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Petroleum Substitute Entitlements Provisions," Docket No. ERA-R-81-02. Ten copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

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

B. Public Hearing

1. *Procedure for requests to make oral presentations. The time and place for the hearing are indicated in the* **DATES** and **ADDRESSES** sections of the preamble. If necessary to present all testimony, the hearing will resume at 9:30 a.m. on the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation. If so, you should describe the interest concerned; if appropriate, state why you are a proper representative of a group or class of

persons that has such an interest; and provide a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing. If you are selected to be heard at the hearing, we will notify you before 4:30 p.m., April 10, 1981. You will be required to make 100 copies of your statement available in Room 2214, 2000 M Street, N.W., Washington, D.C. 20461 by 4:30 p.m., April 14, 1981.

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

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

You may also submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak by 4:30 p.m., April 14, 1981. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made. The entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., and in the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

IV. Procedural Matters

A. Executive Order No. 12291.

Under section 8(b) of Executive Order No. 12291 (46 FR 13193, February 19, 1981), the Director of the Office of Management and Budget ("Director") is authorized to exempt any class or category of regulations from any or all requirements of that Executive Order.

An exemption was requested of the Director for those regulations issued to implement Executive Order No. 12287. The request was granted.

B. Section 7 of the FEA Act

As required by section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended) a draft copy of this notice was submitted to the Administrator of the Environmental Protection Agency (EPA) for comments concerning the impact of this proposal on the quality of the environment. By letter dated February 19, 1981, the EPA Administrator submitted the following comments.

On the basis of our preliminary review, we do not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the Environmental Protection Agency. Although we have no comments to make at this time, we reserve the right to provide further comments in accordance with out responsibilities under Section 309 of the Clean Air Act once the proposed rule has been released for more extensive review and public comment.

C. Section 102 of the NEPA

The DOE has determined that this regulation, as proposed, would not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act and, therefore, that the preparation of an Environmental Impact Statement for this proposal is not required under 10 CFR Part 208.

D. Section 404 of the DOE Act

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*, Pub. L. 95-91), we have referred this proposed rule, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination as to whether the proposal would significantly affect any matter within the Commission's jurisdiction.

E. Regulatory Flexibility Act

This proposed rule, if implemented, would negatively impact the approximately one hundred sixty firms with outstanding applications for case-by-case determination of their eligibility for entitlements for petroleum substitutes. In addition, forty-one firms that have made submissions for automatic inclusion in the petroleum substitutes program would be affected. Many of these firms are "small entities" within the meaning of the Regulatory Flexibility Act. However, there would be no significant impact on any of these firms. Consequently, this is a certification that this proposed rule will not have a significant impact on a substantial number of small entities.

(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 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, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended, effective on the date of issuance of this notice, as set forth below.

Issued in Washington, D.C., March 26, 1981.

Barton R. House,

Acting Administrator, Economic Regulatory Administration.

1. Section 211.67 is amended by revising paragraph (a)(5)(i) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements.*

* * * * *

(5)(i) For each month, entitlements shall be issued with respect to a petroleum substitute as follows:

(A) In the case of a shale oil used as a feedstock or fuel in a domestic refinery, the refiner shall be issued, upon certification prior to January 28, 1981, the ERA that the shale oil has been used as a feedstock or fuel in a domestic refinery, that number of entitlements that would be received by the refiner if each barrel of the shale oil were a barrel of crude oil.

(B) In the case of a shale oil used or sold for use domestically as fuel other than in a refinery, the producer of the shale oil shall be issued, upon certification prior to January 28, 1981, to ERA that the shale oil has been used or sold for use domestically as fuel other than in a refinery, that number of entitlements that would be received by a refiner if each barrel of the shale oil were a barrel of crude oil.

(C) In the case of ethyl alcohol derived from domestic biomass and mixed with gasoline, the producer of the ethyl alcohol shall be issued that number of entitlements that would be received by a refiner if a barrel of ethyl alcohol were equal to 0.6189 barrels of crude oil; *provided, that,* entitlements will be issuable to a producer of ethyl alcohol only upon written certification prior to January 28, 1981, by the producer to ERA that (*1*) the producer has actually mixed the ethyl alcohol with gasoline and used the resulting mixture domestically as fuel or sold the mixture for domestic use as fuel; or (*2*), in any case where the producer sells the ethyl alcohol prior to mixing with gasoline, the producer has received written certification from a subsequent purchaser that such person (*i*) has been the first person to actually mix the ethyl alcohol with gasoline; (*ii*) has used the resulting mixture domestically as fuel or sold the mixture for domestic use as fuel; (*iii*) has based certification as to such use or sale upon documentation; and (*iv*) will maintain such documentation in a manner so as to be available for inspection at any time by the ERA within five years.

(D) In the case of municipal solid waste, the person who first processes the municipal solid waste to produce a solid fuel shall be issued that number of entitlements that would be received by a refiner if each ton of municipal solid waste processed were equal to 1.40 barrels of crude oil; *provided, that,* entitlements will be issuable to the processor of the municipal solid waste only upon written certification prior to January 28, 1981, by the processor to ERA that the processor has (*1*) actually used the solid waste or solid derivative thereof domestically to produce useful energy and that the energy thus produced has actually been used as fuel; or (*2*) sold the solid waste or solid derivative thereof or useful energy produced from either the solid waste or its derivative for domestic use as fuel.

(E) In the case of methane derived from municipal sewage or domestic landfills, the collector of the methane shall be issued, upon certification prior to January 28, 1981, to ERA that the methane has been used or sold for use domestically as fuel, that number of entitlements that would be received by a refiner if each unit of methane having a gross heating value of 5.7 million BTU's were a barrel of crude oil.

(F) In the case of solid waste or a solid or gaseous derivative thereof which has been designated as a petroleum substitute by ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter before January 28, 1981, that person designated by ERA as eligible to participate in the entitlements program with respect to such petroleum substitute shall be issued that the number of entitlements that would be received by a refiner if the unit of measurement established by ERA for that petroleum substitute were a barrel of crude oil.

(G) In the case of a liquid petroleum substitute which has been designated as a petroleum substitute by ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter before January 28, 1981, and which has a gross heating value of 5.7 million or more BTU's per barrel, that person designated by ERA as eligible to participate in the entitlements program with respect to the petroleum substitute shall be issued that number of entitlements that would be received by a refiner if a barrel of the petroleum substitute were a barrel of crude oil.

(H) In the case of a liquid petroleum substitute which has been designated as a petroleum substitute by ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter before January 28, 1981 and which has a gross heating value of less than 5.7 million BTU's per barrel, that person designated by ERA as eligible to participate in the entitlements program with respect to the petroleum substitute shall be issued that number of entitlements that would be received by a refiner if a barrel of the petroleum substitute were equal to a fraction of a barrel of crude oil, the numerator of which would be the gross heating value in BTU's per barrel of the petroleum substitute, and the denominator of which would be 5.7 million BTU's. An order issued by ERA to designate a petroleum substitute shall also designate the firm to which entitlements will be issued and the manner in which the use of the petroleum substitute by that firm shall result in entitlement issuances.

* * * * *

[FR Doc. 81-9723 Filed 3-27-81; 10:41 am]

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FEDERAL REGISTER PAGES AND DATES, MARCH

CFR PARTS AFFECTED DURING MARCH

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.

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/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
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.

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 March 18, 1981; last cumulative listing for the 96th Congress (1980), January 7, 1981.