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federal register

MONDAY, JUNE 6, 1977

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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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.

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled 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.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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Executive Order 11994 • June 1, 1977

United States Foreign Intelligence Activities

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to conform certain references in Executive Order No. 11905 to organizational changes made by Executive Order No. 11985 with respect to the direction and control of intelligence activities, it is hereby ordered as follows:

SECTION 1. Section 3(d) of Executive Order No. 11905, as amended by Executive Order No. 11985, is amended as follows:

(a) Delete subparagraph (1)(i) and insert in lieu thereof:

"(i) Chair the PRC when it carries out the duties assigned in Section 3(b) of this Order.".

(b) Delete in subparagraph (1)(iii) "CFI" and substitute therefor "PRC".

(c) Delete in paragraph (2) "(Committee on Foreign Intelligence)".

SEC. 2. Section 4 of Executive Order No. 11905, as amended by Executive Order No. 11985, is amended as follows:

(a) Delete in paragraph (a)(6) "CFI" and "Operations Group" and substitute therefor "PRC" and "SCC" respectively.

(b) Delete in subparagraph (e)(1)(iii) "CFI" and substitute therefor "PRC".

(c) Delete in subparagraph (e)(1)(v) "CFI" and substitute therefor "PRC".

(d) Delete in paragraph (f)(2) the words "Committee on Foreign Intelligence" and substitute therefor "PRC".

Jimmy Carter

THE WHITE HOUSE,
June 1, 1977.

[FR Doc.77-16054 Filed 6-2-77;3:55 pm]

rules and regulations

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4–2—PROCUREMENT BY FORMAL ADVERTISING

Miscellaneous Amendments

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This amendment prescribes new procedures and contract provision for evaluating additive and deductive bid items in formally advertised construction contracts. The clause is being adopted from the standards contained in the Armed Services Procurement Regulations as recommended by the Comptroller General. This amendment is intended to eliminate the difficulties encountered in evaluating bids with "add" and "deduct" items.

DATE: This rule is effective on June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Douglas I. Metzger, Procurement, Grants and Agreements Management Staff, Office of Operations, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–7527).

SUPPLEMENTARY INFORMATION: This amendment involves matters relating to agency management and contracting and, while not subject by law to the notice and public procedure requirements for rule making under 5 U.S.C. 553, is subject to the Secretary's Statement of Policy (36 FR 13804). The amendment corrects or clarifies existing policy. No useful purpose would be served by public participation, and it is found upon good cause, in accordance with the Secretary's Policy Statement, that notice and other public procedures with respect to the amendment are impracticable and unnecessary.

1. Section 4–2.201 is amended by adding a new paragraph (c) as follows:

§ 4–2.201 Preparation of invitations for bids.

* * * * *

(c) *Construction contracts.*—(1) *Additive or deductive items.* When it appears that funds available for a project may be insufficient for all the desired features of construction, the contracting officer may provide in the invitation for a first or base bid item covering the work generally as specified and for one or more additive or deductive bid items which progressively add or omit specified features of the work in a stated order of priority. In such case, the invitation shall include a provision substantially as set forth below, and the low bidder and the bid items to be awarded shall be determined as therein provided.

(2) The contracting officer, prior to the opening of bids, shall determine and record in the contract file the amount of funds available for the project. The amount so recorded shall be controlling for determining the low bidder, who will receive award for the bid items considered in the evaluation, or for the base bid and any other combination of bid items, *Provided* That award on such combination of bid items does not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items.

ADDITIVE OR DEDUCTIVE ITEMS

The low bidder for purposes of award shall be the conforming responsible bidder offering the low aggregate amount for the first or base bid item, plus or minus (in the order of priority listed in the schedule) those additive or deductive bid items providing the most features of the work within the funds determined by the Government to be available before bids are opened. If addition of another bid item in the listed order of priority would make the award exceed such funds for all bidders, it shall be skipped and the next subsequent additive bid item in a lower amount shall be added if award thereon can be made within such funds. For example, when the amount available is $100,000 and a bidder's base bid and four successive additives are $85,000, $10,000, $8,000, $6,000, and $4,000, the aggregate amount of the bid for purposes of award would be $99,000 for the base bid plus the first and fourth additives, the second and third additives being skipped because each of them would cause the aggregate bid to exceed $100,000. In any case all bids shall be evaluated on the basis of the same additive or deductive bid items, determined as above provided. The listed order of priority need be followed only for determining the low bidder. After determination of the low bidder as stated, award in the best interests of the Government may be made to him on his base bid and any combination of his additive or deductive bid for which funds are determined to be available at the time of the award, provided that award on such combination of bid items does not exceed the amount offered by any other conforming responsible bidder for the same combination of items.

(5 U.S.C. 301, 40 U.S.C. 486(c).)

Done at Washington, D.C., this 27th day of May 1977.

E. ALVAREZ,
Director, Office of Operations.

[FR Doc.77-15827 Filed 6-3-77;8:45 am]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

COTTON CROP INSURANCE

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Revision of appendix.

SUMMARY: The appendix of counties designated as eligible for cotton crop insurance is being revised. The revision will update the current regulations by designating the counties in which cotton crop insurance will be available to producers during the 1977 crop year. This action is necessary in order to make cotton crop insurance available on 1977 crop cotton and will enable cotton producers in these counties to obtain crop insurance.

EFFECTIVE DATE: January 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3197).

7 CFR 401.1 is amended by revising the appendix of counties designated for cotton crop insurance to read as follows:

APPENDIX—COUNTIES DESIGNATED FOR COTTON CROP INSURANCE: 1977 CROP YEAR

Pursuant to the authority contained in 7 CFR 401.101 of the above-identified regulations, as amended, the following counties have been designated for cotton crop insurance for the 1977 crop year.

ALABAMA

Blount	Hale
Cherokee	Jackson
Chilton	Lauderdale
Colbert	Lawrence
Conecuh	Limestone
Covington	Madison
Cullman	Marshall
Dallas	Morgan
DeKalb	Pickens
Escambia	Shelby
Etowah	Tuscaloosa

ARIZONA

Maricopa	Yuma
Pinal	

ARKANSAS

Arkansas	Lee
Ashley	Lincoln
Chicot	Lonoke
Clay	Mississippi
Craighead	Monroe
Crittenden	Phillips
Cross	Poinsett
Desha	Prairie
Greene	Randolph
Jackson	St. Francis
Jefferson	Woodruff
Lawrence	

CALIFORNIA

Fresno	Madera
Imperial	Merced
Kern	Riverside
Kings	Tulare

GEORGIA

Ben Hill	Lee
Brooks	Miller
Clay	Mitchell
Colquitt	Randolph
Cook	Sumter
Crisp	Terrell
Decatur	Thomas
Dooley	Tift
Early	Turner
Irwin	Worth

KENTUCKY

Fulton

LOUISIANA

Acadia	Madison
Avoyelles	Morehouse
Bossier	Natchitoches
Caddo	Pointe Coupee
Caldwell	Rapides
Catahoula	Richland
Concordia	St. Landry
Evangeline	Tensas
Franklin	West Carroll
Lafayette	

MISSISSIPPI

Alcorn	Madison
Benton	Monroe
Bolivar	Panola
Calhoun	Pontatac
Carroll	Prentiss
Chickasaw	Quitman
Coahoma	Sharkey
DeSota	Sunflower
Hinds	Tallahatchie
Holmes	Tippah
Humphreys	Tunica
Issaquena	Union
Lee	Washington
Leflore	Yazoo

MISSOURI

Butler	Pemiscot
Dunklin	Scott
Mississippi	Stoddard
New Madrid	

NEW MEXICO

Chaves	Eddy
Dona Ana	Lea

NORTH CAROLINA

Anson	Northampton
Edgecomb	Robeson
Halifax	Scotland
Hoke	Union
Nash	

OKLAHOMA

Beckham	Jackson
Caddo	Kiowa
Grady	Tillman
Harmon	Washita

SOUTH CAROLINA

Aiken	Florence
Allendale	Hampton
Anderson	Kershaw
Bamberg	Laurens
Barnwell	Lee
Calhoun	Lexington
Chester	Marion
Chesterfield	Marlboro
Clarendon	Orangeburg
Darlington	Spartanburg
Dillon	Sumter
Dorchester	Williamsburg
Edgefield	York

TENNESSEE

Carroll	Lauderdale
Chester	Lawrence
Crockett	Lincoln
Dyer	McNairy
Fayette	Madison
Franklin	Obion
Gibson	Shelby
Giles	Tipton
Hardeman	Weakley
Haywood	

TEXAS

Austin	Hockley
Bailey	Hudspeth
Bell	Hunt
Bosque	Knox
Brazos	Lamar
Briscoe	Lamb
Burleson	Limestone
Calhoun	Lubbock
Cameron	Lynn
Castro	Matagorda
Childress	McLennan
Cochran	Milam
Collin	Navarro
Crosby	Nueces
Dawson	Parmer
Deaf Smith	Pecos
Denton	Presidio
Ellis	Reeves
El Paso	Reugio
Falls	Roberston
Fannin	San Patricio
Floyd	Swisher
Fort Bend	Terry
Garza	Travis
Grayson	Victoria
Hale	Wharton
Hall	Wilbarger
Haskell	Willacy
Hidalgo	Williamson
Hill	

VIRGINIA

Southampton

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

W. OTTO JOHNSON,
Acting Manager.

[FR Doc.77-15874 Filed 6-3-77;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

GRAIN SORGHUM CROP INSURANCE

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The appendix of counties designated as eligible for grain sorghum crop insurance is being revised. The revision will update the current regulations by designating the counties in which grain sorghum crop insurance will be available to producers during the 1977 crop year. This action is necessary in order to make grain sorghum crop insurance available on 1977 crop grain sorghum and will enable grain sorghum producers in these counties to obtain crop insurance.

EFFECTIVE DATE: November 31, 1976.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3197).

7 CFR 401.1 is amended by revising the appendix of counties designated for grain sorghum crop insurance to read as follows:

APPENDIX—COUNTIES DESIGNATED FOR GRAIN SORGHUM CROP INSURANCE: 1977 CROP YEAR

Pursuant to the authority contained in 7 CFR 401.101 of the above-identified regulations, as amended, the following counties have been designated for grain sorghum crop insurance for the 1977 crop year.

ARIZONA

Maricopa	Yuma
Pinal	

COLORADO

Kit Carson

KANSAS

Allen	McPherson
Anderson	Meade
Atchison	Miami
Barton	Mitchell
Bourbon	Montgomery
Brown	Morris
Butler	Morton
Chase	Nemaha
Clay	Neosho
Cloud	Osage
Coffey	Osborne
Cowley	Ottawa
Crawford	Pawnee
Dickinson	Phillips
Doniphan	Pottawatomie
Douglas	Pratt
Elk	Reno
Ellis	Repulic
Ellsworth	Rice
Finney	Riley
Ford	Rooks
Franklin	Rush
Geary	Russell
Grant	Saline
Gray	Scott
Greenwood	Sedgwick
Harvey	Seward
Haskell	Shawnee
Jackson	Sheridan
Jefferson	Smith
Jewell	Stafford
Johnson	Stanton
Kearny	Stevens
Kingman	Sumner
Labette	Wabaunsee
Lincoln	Wallace
Linn	Washington
Lyon	Wichita
Marion	Wilson
Marshall	Woodson

MISSOURI

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Barton	Jasper
Bates	Vernon

NEBRASKA

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Boone	Nance
Butler	Nemaha
Cass	Nuckolls
Clay	Otoe
Colfax	Pawnee
Dodge	Platte
Fillmore	Polk
Franklin	Richardson
Gage	Saline
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NEW MEXICO

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Caddo	Nowata
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Calhoun	Matagorda
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Carson	Milam
Castro	Moore
Collin	Navarro
Crosby	Nueces
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Ellis	Randall
Falls	Refugio
Fannin	San Patricio
Floyd	Sherman
Fort Bend	Starr
Grayson	Swisher
Guadalupe	Travis
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Hale	Willacy
Hansford	Wharton
Hartley	Williamson
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(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

W. OTTO JOHNSON,
Acting Manager.

[FR Doc.77-15875 Filed 6-3-77;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

SUGARCANE CROP INSURANCE

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Revision of appendix.

SUMMARY: The appendix of parishes designated as eligible for sugarcane crop insurance is being revised. The revision will update the current regulations by designating the parishes in which sugarcane crop insurance will be available to producers during the 1977 crop year. This action is necessary in order to make sugarcane crop insurance available on 1977 crop sugarcane and will enable sugarcane producers in these parishes to obtain crop insurance.

EFFECTIVE DATE: June 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3197).

7 CFR 401.101 is amended by revising the appendix of parishes designated for Sugarcane Crop Insurance to read as follows:

APPENDIX—PARISHES DESIGNATED FOR SUGARCANE CROP INSURANCE: 1977 CROP YEAR

Pursuant to the authority contained in 7 CFR 401.101 of the above-identified regulations, as amended, the following parishes have been designated for sugarcane crop insurance for the 1977 crop year.

LOUISIANA

Ascension	St. James
Assumption	St. John the Baptist
Iberia	St. Martin
Iberville	St. Mary
Lafayette	Terrebonne
Lafourche	Vermilion
Pointe Coupee	West Baton Rouge

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

PETER F. COLE,
Acting Manager.

[FR Doc.77-15876 Filed 6-3-77;8:45 am]

PART 411—GRAPE CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

GRAPE CROP INSURANCE

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The appendix of counties designated as eligible for grape crop insurance is being revised. The revision will update the current regulations by designating the counties in which grape crop insurance will be available to producers during the 1977 crop year. This action is necessary in order to make grape crop insurance available on 1977 crop grapes and will enable grape producers in these counties to obtain crop insurance.

EFFECTIVE DATE: September 15, 1976.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3197).

7 CFR 411.1 is amended by revising the appendix to read as follows:

APPENDIX—COUNTIES DESIGNATED FOR GRAPE CROP INSURANCE: 1977 CROP YEAR

Pursuant to the authority contained in 7 CFR 411.1 of the above-identified regulations, the following counties have been designated for grape crop insurance for the 1977 crop year.

NEW YORK

Chautauqua	Seneca
Niagara	Steuben
Ontario	Yates
Schuyler	

PENNSYLVANIA

Erie

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

PETER F. COLE,
Acting Manager.

[FR Doc.77-15867 Filed 6-3-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-CE-2-AD; Amdt. 39-2913]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 278 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires modification of Beech Model 278 propellers and continues in effect existing required inspections of these propellers until the modification is accomplished. This action is necessary to preclude possible failure of the pitch control bolts on these propellers.

EFFECTIVE DATE: July 16, 1977.

ADDRESSES: The applicable service bulletin may be obtain from Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. A copy of the service bulletin is contained in the rules docket, Room 1558, Federal Building, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Donald L. Page, Aerospace Engineer, Engineering & Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION:

Amendment 39-897 (34 FR 20266) as revised by Amendment 39-967 (35 FR 5680), AD 69-26-4, is an AD applicable to Beech Model 278 propellers installed on Beech Models H35, J35, K35, M35, N35, P35, A45 (T34A), B45 and D45 (T34B) airplanes. AD 69-26-4 requires replacement of the pitch control bolts on this propeller that cannot be identified as P/N 278-336 bolts and also requires 100 hour dye penetrant inspections of the P/N 278-336 bolts until Beech Kit No. 278-0002S, incorporating P/N 278-368-1 or -3 pitch control bolts is installed, which installation per AD 69-26-4 is optional. Subsequent to the issuance of AD 69-26-4 failures of P/N 278-336 pitch control bolts continued to be reported. Because of these failures the FAA determined that those bolts should be removed from service and installation of

the Beech Kit made mandatory. Accordingly, a proposal to amend Part 39 of the Federal Aviation Regulations to this effect was published in the FEDERAL REGISTER at 42 FR 13837, 13838. This proposal would supersede AD 69-26-4.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are Donald L. Page, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

Accordingly, pursuant to the authority delegated to me by the Administrator 14 CFR § 11.89, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR § 39.13) is amended by adding the following AD:

BEECH. Applies to Model 278 propellers installed on Models H35, J35, K35, M35, N35, P35, A45 (T34A), B45 and D45 (T34B) airplanes.

Compliance: Required as indicated, unless previously accomplished.

To prevent loss of propeller control, accomplish the following: (A) Within 100 hours' time in service after the last inspection accomplished per AD 69-26-4, using dye penetrant procedures, inspect Beech P/N 278-336 pitch control bolts for evidence of cracks in the exposed thread runout area between the hex flats and the aft pitch setting nut. If a crack is detected, install Beech Kit No. 278-0002S incorporating Beech P/N 278-368-1 or -3 pitch control bolts and steel pitch control yoke, in accordance with Beechcraft Service Instructions 0302-248, or later approved revisions.

(B) Within 100 hours' time in service after the effective date of this AD, install Beech Kit No. 278-0002 S incorporating P/N 278-368-1 or -3 pitch control bolts and steel pitch control yoke, in accordance with Beechcraft Service Instructions 0302-248, or later approved revisions.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This AD supersedes AD 69-26-4 (Amendments 39-897 and 39-967).

This amendment becomes effective July 16, 1977.

(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)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on May 26, 1977.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc.77-15863 Filed 6-3-77;8:45 am]

[Airspace Docket No. 77-SW-22]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone: Alexandria, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of operation of the Alexandria, La. (Esler Regional Airport) control zone to coincide with the hours of operation of the Alexandria, La., Flight Service Station (FSS) and Esler Regional Airport Traffic Control Tower (ATCT). The FSS hours of operation are being reduced from continuous to 0600 to 1800 local time daily. The ATCT will continue operations until 2100 local time daily. This reduces the availability of special weather observations accordingly and necessitates the change in the control zone hours of operation to conform to the FSS and ATCT hours of operation.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101; telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In subpart F § 71.171 (42 FR 355) of FAR Part 71, the Alexandria, La. (Esler Regional Airport) control zone is designated as continuous (through the omission of any reference to specific dates and times of operation). This conforms with the FSS hours of operation. Special weather observations are provided by the FSS on a 24-hour basis, which is one of the requirements for a continuous control zone operation.

A traffic survey was completed on October 31, 1976, which indicated insufficient activity to retain the FSS 24-hour operation. On August 11, 1977, the FSS hours of operation will be reduced to 0600 to 1800 local time daily. The ATCT will continue to operate until 2100 local time daily and will provide the necessary weather observations from 1800 to 2100. This will necessitate a change in the control zone hours of operation to 0600 to 2100 local time.

The aforementioned action will reduce the constraints and, in effect, the impact on the user imposed by the control zone operation. Consequently, we have elected to omit circularization of the change for comment.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., August 11, 1977, as hereinafter set forth.

In Subpart F § 71.171 (42 FR 355), the Alexandria, La. (Esler Regional Airport) control zone is amended by adding the following sentence:

"This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on May 27, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-15864 Filed 6-3-77;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1000, Amdt. 36]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Service of Charter Tariff Publications on Charterers

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This amendment requires carriers or their agents issuing charter tariff publications to send one copy of the publication and letter of transmittal to each person whose charter contract is affected by the new tariff. The notice to affected persons will be required at the same time that the publication is transmitted to the Board. This action grows out of a petition by Vacation Ventures/Carefree Travel, Inc., a tour operator.

DATES: Effective: July 6, 1977. Adopted: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5436).

SUPPLEMENTARY INFORMATION: Adopted by the Civil Aeronautics Board at its office in Washington, D.C. By notice of proposed rulemaking EDR-305, dated September 21, 1976 (14 FR 41928) the Board gave notice that it had

under consideration a proposal to amend Part 221 of its Economic Regulations (14 CFR Part 221) so as to require carriers or their agents to serve each person with whom the carrier has contracted to provide charter service with any tariff publication which will or may affect the rates, charges, terms, conditions, rules or regulations applicable to one or more of the flights under contract.

Comments on the proposed rule have been received from numerous airlines and tour operators.[1] The airlines generally oppose our proposal, while the tour operators support it. Upon consideration of all the comments, we have determined to make the proposed rule final.

Continental Air Lines, Northwest Airlines and United Air Lines question the basis for our proposal. While they do not expressly argue that the Board has no power to compel carriers to go beyond the requirements of section 403 of the Act,[2] they state that by filing tariffs with the Board and keeping them open for public inspection, they have provided the full legal notice required. As we stated in EDR-305, we believe our actions herein are fully consistent with our authority under section 403.[3] In the exercise of this authority, the Board has in the past prescribed rules for the posting of tariff publications at various air carrier facilities,[4] and, when necessary, has required carriers to go beyond the usual posting requirements. Thus, we have found such additional notification to be required with regard to Warsaw Convention rules,[5] baggage liability limitations,[6] and carrier overbooking practices.[7] In view of the substantial financial stake charterers have in the flight for which they have contracted, we have determined that additional notice procedures are also appropriate here.[8]

The major argument advanced by opponents of the proposed rule is that it would create an undue burden. Some airlines, for example, state that they will have to serve every tariff change on all charter customers, because it would be difficult or impossible to sort out those affected by a particular change. We find it difficult to accept the proposition that the direct carrier does not know in advance what areas of its charter business are affected by a tariff revision it files with the Board. However, even if this were true, we fail to see why advance notification would create any real problems. As we observed in EDR-305:

> Since the carriers currently have to identify each of the charterers after a tariff becomes effective in order to revise the charter agreement, it is hard to appreciate how the identification of these persons beforehand in order to provide them with service of the proposed tariff filing would represent such an undue burden for the carriers.[9]

Opponents of the proposed rule refer to other pending matters which would largely alleviate the problem of charter tariff changes. These include the Board's legislative reform proposals which would no longer require the filing of charter rate tariffs, and NACA's petition for rulemaking in Docket 30654 which would eliminate charter tariffs entirely. Both of these proposals, however, will have effect, if at all, only at some indeterminate time in the future, and do not now bear directly on the instant proceeding. As long as carriers can unilaterally act to amend a charter agreement by filing a tariff, charterers are entitled to learn promptly of such actions.

Opposing carriers have offered a number of methods for informing interested persons of tariff changes which they would prefer to our proposal. None, however, are adequate substitutes for our rule. For example, Continental, Eastern, Pan American and Trans World Airlines state that interested persons should employ tariff monitoring services. However, monitoring services do not meet the needs of charterers who have contracted for a single flight. In any event, we cannot agree that a charterer should be required to pay a third person in order to find out whether the carrier has changed the terms of their agreement.

Continental, along with American Airlines, also believes that a tariff subscription service (such as that proposed by the Board in EDR-313[10] and adopted by ER-1001, issued contemporaneously herewith) would provide a better solution than the one we have proposed. The advantage of a subscription service, these carriers argue, is that it would make it easier for carriers to recover their costs.[11] As we note in ER-1001, subscription services do not meet the need addressed here. They are useful to persons who desire to be informed about tariff changes generally. However, for the person who is interested in only those changes which affect the flight he has contracted to charter, tariff subscriptions may be too cumbersome to be an effective source of information.

Braniff Airways, Eastern, Northwest, Pan American, Trans International, United and World Airways would all have us provide for notification by letter rather than the actual tariff pages. In order to minimize the possibility of errors in the information provided to the charterers, we believe that it is preferable for the carriers to provide the tariff pages involved in any amendment affecting the contract. Nevertheless, we agree that a letter may be valuable to the charterer, by providing him with a ready summary of the impact of the tariff change. While these letters cannot replace the official tariff pages, we would encourage airlines to provide such a summary whenever possible.

The other suggestions require only brief discussion here. British Caledonian Airways would have us prohibit the filing of charter tariffs which are inconsistent with the terms of executed contracts. The enforcement problems inherent in such a proposal are substantial, and, we think, obvious. Pan American recommends that we require most charter tariffs (although not all) to be filed 90 days in advance of the effective date. This would simply not solve the essential problem, which is assuring affected persons that they will have actual notice of proposed tariff changes. Filing a tariff, no matter how far in advance of its effective date, provides only constructive notice, which we have determined to be inadequate here. Finally, Piedmont Aviation suggests that we provide that failure to transmit a proposed tariff change to a particular customer would make the changed tariffs inapplicable to that customer. Piedmont argues that this would spare carriers from the burden of serving many otherwise-unnecessary tariff revisions, out of fear that the changes "may" affect existing contracts. As we have said, the direct carrier must always determine which of its contracts will be affected by tariff filings, and we have seen no persuasive evi-

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[1] For a list of commenting parties, see the Appendix, which is filed as part of the original document.

[2] United does argue that the Board has no power to require an air carrier to serve its tariffs "on all of its passengers," but that, of course, is far beyond anything the Board is doing here.

[3] In addition, providing affected persons with copies of tariff amendments will facilitate their participation in the tariff review process. This, in turn, will aid the Board in determining whether to suspend and/or investigate any particular charter tariff. The new rule thus also furthers the purposes of section 1002.

[4] 14 CFR 221.170-221.174.

[5] 14 CFR 221.175.

[6] 14 CFR 221.176.

[7] 14 CFR 221.177.

[8] We note that several carriers argue that it is improper for the Board to require better notification of tariff changes regarding charters than it does for scheduled operations. While it would, of course, be desirable to provide all individuals and shippers with actual notice of tariff changes, we recognize that a significant burden would be created by such a requirement. Here, however, actual notice will not create any great burden. Accordingly, there is no reason to deny charterers the additional notice we find necessary.

[9] P. 3.

[10] 41 FR 48376.

[11] We note here that American and Pan American ask that we authorize the establishment of a specific charge for service of each tariff amendment. We will not permit this. No party has attempted to quantify the costs involved in our rule. Accordingly, we have no reason to believe that the costs will be significant, and see no justification for a specific charge. We would also point out that as long as an airline refrains from making tariff changes affecting its charter contracts, it will incur no costs in this regard.

dence that it is in an undue burden to require that this determination be made when the tariff is filed. In addition, Piedmont's suggested rule could give rise to discrimination: one charterer could receive an unfair advantage over another as a result of the airline's failure to serve notice of tariff changes.[18]

The Flying Tiger Line would exclude freight charters from the tariff-service requirement. We can not agree. All charter customers, passenger or freight, are entitled to advance notification of changes in the governing tariffs. As Flying Tiger notes, "freight charter arrangements are normally made relatively close to the flight date."[19] Therefore, the direct carrier should not ordinarily need to alter the charter agreement by a tariff filing. Nonetheless, when it does so, fairness dictates that the customer be given adequate notice.

We will also deny Pan American's request to limit the rule to United States based indirect air carriers, and to changes in charter rates (not rules). On the first point, we see no reason to distinguish between charterers. And once again, both these proposals would defeat our intention to provide better notice of all proposed contractual changes.

Accordingly, the Civil Aeronautics Board hereby amends Part 221 of its Economic Regulations (14 CFR Part 221) effective July 6, 1977, as set forth below:

1. The Table of Contents of Part 221 is amended by adding a § 221.178 to read as follows:

Sec.

* * * * *

221.178 Service of charter tariff publications on charterers.

* * * * *

2. A new § 221.178 is added to Part 221 to read as follows:

§ 221.178 Service of charter tariff publications on charterers.

At the same time that a charter tariff publication is transmitted to the Board, the issuing carrier or its agent shall send, by first class mail, air mail or equivalent service, one copy of the tariff publication and letter of transmittal to each person with whom the carrier has contracted to provide charter service when such tariff will or may affect the rates, charges, terms, conditions, rules, or regulations applicable to one or more flights operated under such contract.

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

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15940 Filed 6-3-77;8:45 am]

[Reg. ER-1001, Amdt. 37]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Transmission of Tariff Filings to Subscribers

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This amendment will require air carriers and foreign air carriers which are required to file tariffs to offer tariff subscription services for passenger fares, freight rates and charter services. This action is taken in order to provide greater dissemination of information about proposed tariff changes.

DATES: Effective: July 6, 1977. Adopted: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5436).

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking EDR-313, dated October 28, 1976 (41 FR 48376, November 3, 1976), the Board gave notice that it had under consideration a proposed amendment of Part 221 of its Economic Regulations (14 CFR Part 221) which would require carriers subject to section 403(a) of the Act to offer a priority subscription service for tariffs relating to passenger fares, freight rates and charter services. Under the proposal, carriers would be required to transmit to each subscriber one copy of each new tariff, supplement, and loose-leaf page, including the justification required by § 221.165 of the Board's Economic Regulations (14 CFR 221.165), not later than the time that copies for official filing are transmitted to the Board. At the same time the Board proposed to permit carriers to establish a charge for the subscription service, so long as the charge does not exceed the added cost involved.

Comments on the proposed rule have been filed by the Air Freight Forwarder Association, Allegheny Airlines, American Airlines, Associated Traffic Services, the Boeing Company, Flying Tiger Line, the State of Hawaii, the National Industrial Tariff League, the National Small Shipments Traffic Conference, Northrop Corporation, Northwest Airlines, Omark Industries, Rockwell International Corp., Reuben H. Donnelly Corp., Trans World Airlines, United Air Lines, the Western Growers Association, and Wits Air Freight. All commenting parties except Wits and Allegheny support the basic scheme of our proposal,[1] although a number of parties have recommended certain modifications.

Upon consideration of all the comments, we have determined to adopt the rule substantially as proposed, but with one change discussed below. Any argument not expressly addressed herein has been considered and rejected.

Northwest, Trans World and United have asked that carriers be permitted to transmit tariffs and justifications to subscribers one day after filing with the Board. They state that there are frequently acute clerical problems in posting a tariff on time, and that requiring carriers to mail tariffs and justifications on the same day as posting could cause unnecessary delay in the filing of some tariffs. We will grant this request. We do not believe that a one-day delay in transmission is likely to interfere substantially with the utility of the subscription service or with the ability of subscribers to participate in the Board's procedures for reviewing the tariffs. Nevertheless, we expect carriers to transmit tariffs to subscribers as early as is practicable.

Wits Air Freight opposes our proposal, on the grounds that it is unnecessarily burdensome and that it "would be greatly detrimental to any competitive edge we may obtain by certain tariff filings."[2] Implicit in this argument is the assumption that a carrier may properly restrict the availability of its tariffs to its competitors. We find this notion inconsistent with the fact that tariff filings are by law public documents. As for the argument that tariff subscriptions will create unnecessary burdens and costs, we would point out that our rule expressly permits carriers to establish a fee which reflects the carrier's added cost of supplying the subscription services.

Allegheny, while taking no position on the other aspects of the proposed rule, opposes the establishment of subscription services for charter transportation tariffs. It argues that it produces its charter tariffs "in-house" and is not equipped to meet demand for subscrip-

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[18] In Order 77-4-94, we ordered that domestic carriers include in their tariffs a provision waiving limitations on baggage liability where it is shown that with respect to a particular claimant the carrier had failed to comply with the notice requirements of § 221.176 of the Economic Regulations. However, in contrast to the present situation, it is unlikely that the liability limitation could be used to confer a benefit on some persons at the expense of others. The adequacy of notice is a question which arises only after the injury, and only for those passengers who carry baggage worth more than $750 but who have not declared that fact and purchased excess valuation coverage. Since the carrier does not ordinarily know in advance the value of the passenger's baggage, and, of course, does not know which passengers will incur a baggage claim, it does not know which passengers will be affected by the liability limitation. By comparison, the carrier does know prior to departure which charterers are affected by tariff amendments. Piedmont's proposal would make it possible for the carrier to apply the amended tariff language only to particular charterers.

[19] Comments of Flying Tiger Line, p. 1.

[1] Allegheny opposes the establishment of subscription services for charter tariffs; it takes no position on the other aspects of our proposal.

[2] Comments of Wits Air Freight, p. 1.

tions. In addition, Allegheny says, our proposal in EDR-305 [3] to require service of charter tariffs on all affected customers will obviate the need for a subscription service. We disagree. The requirement that tariffs be served on customers who have contracted for charter transportation does not meet the needs of those persons who desire to keep informed about rules and rates for charter transportation, but who are not under contract for any particular flight.[4] In addition, we again note that we will permit carriers to impose a cost-based charge for tariff subscriptions. This should alleviate any burden created by our rule. Allegheny's own statements regarding the de minimis nature of its charter operations suggest, however, that it will incur little additional burden in supplying copies of its charter tariffs to subscribers.[5]

The National Small Shipments Traffic Conference disputes our proposal to provide for separate subscriptions for tariffs pertaining to passenger, freight, and charter transportation. It argues that this will unnecessarily add to the costs of the tariff subscription service, and suggests that the three categories be combined into a single subscription. We will not adopt the recommendation. Our proposal provided for three separate subscription lists precisely in order to save costs. Many subscribers will be interested in only one area (such as tour operators who would want only charter tariffs, or air freight forwarders who would want freight tariffs). These persons should not have to pay for tariffs for which they have no need.

Finally, the National Industrial Traffic League and Rockwell International Corp. support the establishment of tariff subscriptions, but suggest that we require tariffs to be filed more than 30 days in advance of the effective date. However, the 30-day period is fixed by section 403(c) of the Act and cannot as a general matter be lengthened by the Board.[6] In any event, the matter is outside the scope of this proceeding.

Accordingly, the Civil Aeronautics Board hereby amends Part 221 of its Economic Regulations (14 CFR Part 221) effective July 6, 1977, as set forth below:

1. The table of Contents of Part 221 is amended by adding a new § 221.179 to read as follows:

Sec.

* * * * *

221.179 Transmission of tariff filings to subscribers.

* * * * *

2. A new § 221.179 is added to Part 221 of the Economic Regulations to read as follows:

§ 221.179 Transmission of tariff filings to subscribers.

(a) Each carrier required to file tariffs in accordance with this Part shall make available to any person so requesting a subscription service as described in paragraph (b) of this section separately for its passenger tariffs, its freight tariffs, and its Charter tariffs issued by it or by a publishing agent on its behalf.

(b) Under the required subscription service one copy of each new tariff, supplement, and loose-leaf page, including the justification required by § 221.165, must be transmitted to each subscriber thereto by first-class mail (or other equivalent means agreed upon by the subscriber) not later than one day following the time the copies for official filing are transmitted to the Board. The subscription service described herein shall not preclude the offering of additional types of subscription services by carriers or their agents.

(c) The carriers or their publishing agents at their option may establish a charge for providing the required subscription service to subscribers: *Provided*, That the charge may not exceed a reasonable estimate of the added cost of providing the service.

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

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15941 Filed 6-3-77;8:45 am]

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[3] 41 FR 41928. ER-1000, issued contemporaneously herewith, makes this proposal final.

[4] In contrast to Allegheny, American Airlines supports our proposal here, but asks that EDR-305 be withdrawn. It is readily apparent, we believe, that one should not have to subscribe to all of a carrier's charter tariffs in order to obtain information on changes affecting the particular flight for which he has contracted.

[5] See Comments of Allegheny Airlines, pp. 2-4. Allegheny notes that it presently sends copies of its charter tariffs to any interested person without charge.

[6] Legislation now pending before Congress would require tariffs to be filed 45 days in advance of their effective date. The proposed legislation, however, would require that any action to suspend or reject the tariffs be taken at least 15 days prior to the tariff's effective date. See, for example, H.R. 26 and S. 498, introduced in the 95th Congress, 1st session.

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1306—PRESCRIPTIONS

Refilling of Prescriptions for Controlled Substances; Computerized Refill Information

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This rule allows a pharmacy to use a data processing system as an additional manner of storing and retrieving prescription refill information for Schedule III and IV substances. This action was initiated upon request of various pharmacy professionals and associations that current regulations be modified to accommodate advancing technology in the practice of pharmacy. This rule will allow those pharmacies electing to adopt current state of the art computerization of prescription information to maintain such records in compliance with DEA regulations, and still provide DEA sufficient accountability information to monitor against diversion.

FOR FURTHER INFORMATION CONTACT:

Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, Washington, D.C. 20537, telephone 202-382-4217.

SUPPLEMENTARY INFORMATION: On November 2, 1976, the Administrator of the Drug Enforcement Administration issued a Notice of Proposed Rulemaking (21 FR 49505-06, November 9, 1976) which included a proposal to permit pharmacies to store and retrieve prescription refill information for schedule III and IV controlled substances by use of a computerized system.

The Notice called for responsive comments and objections to be submitted to DEA on or before December 10, 1976. As to this proposal, five submissions were received providing a variety of comments and objections.

Four commenters submitted suggestions and objections which, after full consideration by DEA, were rejected. These comments included suggestions that: (1) the time limit for providing records from the central recordkeeping facility be extended from 48 hours, as proposed, to 72 hours; (2) manual verification of renewal data for each day be eliminated; (3) the proposed requirement that the name address, and DEA registration number of the prescribing practitioner be maintained "on line" in the computer system should be eliminated; and (4) the proposed manner of refill information retrieval by computer might be beyond the capability of the system which one individual computer service firm now provides.

Four commenters provided suggestions, one of which was that DEA use more appropriately descriptive terms in the final order than it used in the proposal, and that the time limit for providing a printout copy of each day's renewal data for verification be extended from 24 hours, as proposed, to 72 hours.

DEA has in large measure accepted these suggestions, which have been incorporated into the final rule set forth below.

No further comments or objections were received, nor were there any requests for a hearing.

Therefore, pursuant to the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that § 1306.22, Title 21, Code of Federal Regulations (CFR), be amended by designating the existing paragraph therein as paragraph (a), and by adding the following:

§ 1306.22 Refilling of prescriptions.

* * * * *

(b) as an alternative to the procedures provided by subsection (a), an automated data processing system may be used for the storage and retrival of refill information for prescription orders for controlled substances in Schedule III and IV, subject to the following conditions:

(1) Any such proposed computerized system must provide on-line retrieval (via CRT display or hard-copy printout) of original prescription order information for those prescription orders which are currently authorized for refilling. This shall include, but is not limited to, data such as the original prescription number, date of issuance of the original prescription order by the practitioner, full name and address of the patient, name, address, and DEA registration number of the practitioner, and the name, strength, dosage form, quantity of the controlled substance prescribed (and quantity dispensed if different from the quantity prescribed), and the total number of refills authorized by the prescribing practitioner.

(2) Any such proposed computerized system must also provide on-line retrieval (via CRT display or hard-copy printout) of the current refill history for Schedule III or IV controlled substance prescription orders (those authorized for refill during the past six months.) This refill history shall include, but is not limited to, the name of the controlled substance, the date of refill, the quantity dispensed, the identification code, or name or initials of the dispensing pharmacist for each refill and the total number of refills dispensed to date for that prescription order.

(3) Documentation of the fact that the refill information entered into the computer each time a pharmacist refills an original prescription order for a Schedule III or IV controlled substance is correct must be provided by the individual pharmacist who makes use of such a system. If such a system provides a hard-copy printout of each day's controlled substance prescription order refill data, that printout shall be verified, dated, and signed by the individual pharmacist who refilled such a prescription order. The individual pharmacist must verify that the data indicated is correct and then sign this document in the same manner as he would sign a check or legal document (e.g., J. H. Smith, or John H. Smith). This document shall be maintained in a separate file at that pharmacy for a period of two years from the dispensing date. This printout of the day's controlled substance prescription order refill data must be provided to each pharmacy using such a computerized system within 72 hours of the date on which the refill was dispensed. It must be verified and signed by each pharmacist who is involved with such dispensing. In lieu of such a printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in such dispensing shall sign a statement (in the manner previously described) each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by him and is correct as shown. Such a book or file must be maintained at the pharmacy employing such a system for a period of two years after the date of dispensing the appropriately authorized refill.

(4) Any such computerized system shall have the capability of producing a printout of any refill data which the user pharmacy is responsible for maintaining under the Act and its implementing regulations. For example, this would include a refill-by-refill audit trail for any specified strength and dosage form of any controlled substance (by either brand or generic name or both). Such a printout must indicate name of the prescribing practitioner, name and address of the patient, quantity dispensed on each refill, date of dispensing for each refill, name or identification code of the dispensing pharmacist, and the number of the original prescription order. In any computerized system employed by a user pharmacy the central recordkeeping location must be capable of sending the printout to the pharmacy within 48 hours, and if a DEA Special Agent or Compliance Investigator requests a copy of such printout from the user pharmacy, it must, if requested to do so by the Agent or Investigator, verify the printout transmittal capability of its system by documentation (e.g., postmark).

(5) In the event that a pharmacy which employs such a computerized system experiences system down-time, the pharmacy must have an auxiliary procedure which will be used for documentation of refills of Schedule III and IV controlled substance prescription orders. This auxiliary procedure must insure that refills are authorized by the original prescription order, that the maximum number of refills has not been exceeded, and that all of the appropriate data is retained for on-line data entry as soon as the computer system is available for use again.

(c) When filing refill information for original prescription orders for Schedule III or IV controlled substances, a pharmacy may use only one of the two systems described in paragraph (a) or (b) of this section.

(d) Any registrant who intends to use a system provided by paragraph (b) of this section must first apply for a Permit to Maintain Central Records as required by § 1304.04(a).

* * * * *

Dated: May 23, 1977.

DONALD E. MILLER,
Acting Administrator,
Drug Enforcement Administration.

[FR Doc.77-15859 Filed 6-3-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-285]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Idabel, Oklahoma

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 23, 1974, in 39 FR 2603, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Idabel, Oklahoma. Map No. H 400108A Panel 01 indicates that Lot 5, Block 2, Replat of Loftin Heights, Addition (3), Idabel, Oklahoma, as recorded in Plat Book 1, Page 61, in the office of the County Clerk of McCurtain County, Oklahoma, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 400108A Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 18, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-15930 Filed 6-3-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 Panel 01 indicates that Lot 18, Block 2906, located at 534 Van Buren Street, Ridgewood, New Jersey, as recorded in Book 6080, Page 303, in the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 340067 Panel 01 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-15931 Filed 6-3-77;8:45 am]

[Docket No. FI-364]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Saugus, Massachusetts

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On September 24, 1974, in 39 FR 34271, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Saugus, Massachusetts. Map No. H 250104A Panel 03 indicates that Lots 21 and 22[A], located at 283 Main Street, Saugus, Massachusetts, as recorded under Certificate of Title Nos. 12173 and 21240, respectively, in the Southern District of the Registry of Deeds of Essex County, Massachusetts, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 250104A Panel 03 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on September 13, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-15932 Filed 6-3-77;8:45 am]

[Docket No. FI-803]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Carthage, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 4, 1976, in 41 FR 9360, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Carthage, Missouri. Map No. H 290181A Panel 02 indicates that Lot 35, Elmwood Addition, Carthage, Missouri, as recorded in Plat Book 8, Page 8, in the office of the Recorder of Jasper County, Missouri, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes

the requirement to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 290181A Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on February 20, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-15933 Filed 6-3-77;8:45 am]

[Docket No. FI-454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 28, 1975, in 40 FR 4126, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the County of Orange, California. Map No. H 060212 Panel 02 indicates that portions of Lots 15, 16, 19, and 20, Tract 997, located at 28915 Olive Drive, Orange County, Silverado, California, as recorded in Book 11755, Pages 675 and 676, in the office of the Recorder of Deeds of Orange County, California, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 060212 Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on January 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-15934 Filed 6-3-77;8:45 am]

[Docket No. FI-455]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of San Jose, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 27, 1975, in 40 FR 3986, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of San Jose, California. Map No. H 060349A Panels 22 and 23 indicate that Parcel 1; Parcel 2 and Parcel 4; Parcel 3; the 1.114± acres of land also known as Parcel A and the 1.323± acres of land also known as Parcel B, San Jose, California, as recorded in Book 363, Page 42; Book 352, Page 13, Book 352, Page 5; and Book 370, Page 52, respectively, in the office of the Recorder of Santa Clara County, California, are in their entirety within the Special Floor Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 060349A Panels 22 and 23 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 24, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-15935 Filed 6-3-77;8:45 am]

[Docket No. FI-327]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Cedar Rapids, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 12, 1974, in 39 FR 28888, the Federal Insurance Administrator published a list of communities with special hazard areas which included Cedar Rapids, Iowa. Map No. H 190187 Panel 01 indicates that Lots 127 through 133, Northbrook Subdivision, Unit II, Cedar Rapids, Iowa, as recorded in Volume 17, Page 6 of Plats in the office of the Recorder of Linn County, Iowa, are in their entirety within the Special Flood Hazard Area. It has been determined by

the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above property are not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 190187 Panel 01 is hereby corrected to reflect that the existing structures on the above property are not within the Special Flood Hazard Area identified on August 2, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.77–15936 Filed 6–3–77;8:45 am]

[Docket No. FI–321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Annapolis, Maryland

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, in 39 FR 28255, the Federal Insurance Administrator published a list of communities with special hazard areas which included Annapolis, Maryland. Map No. H 240009A Panel 03 indicates that 430–1st Street located on the northeastern 51 feet of Lot 144, Eastport, Annapolis, Maryland, as recorded in Plat Number B–301, Book 11, Folio 31, Speed 22, in the office of the Clerk of the Circuit Court of Anne Arundel County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240009A Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77–15937 Filed 6–3–77;8:45 am]

[Docket No. FI–410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with special hazard areas which included Anne Arundel County, Maryland. Map No. H 240008 Panel 51 indicates that Lot Number 3, Rugby Hall Subdivision, Anne Arundel County, Maryland, as recorded in Liber 2914, Page 715, of Deeds in the office of Land Records of Anne Arundel County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240008 Panel 51 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.77–15938 Filed 6–3–77;8:45 am]

[Docket No. FI-2367]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Greenville County, South Carolina

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On October 15, 1976, in 41 FR 45557, the Federal Insurance Administrator published a list of communities with special hazard areas which included Greenville County, South Carolina. Map No. H 450089 Panel 34 indicates that Lots 39–51, Section 2, Berea Forest Subdivision, Greenville County, South Carolina, as recorded in Book 4N, Pages 76 and 77 of Plats, in the office of the Register of Mesne Conveyance of Greenville County, South Carolina, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 450089 Panel 34 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 19, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 3, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-15939 Filed 6-3-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-144]

PART 114—GENERAL

PART 115—BRIDGE LOCATIONS AND CLEARANCES: ADMINISTRATIVE PROCEDURES

Procedures for Processing Bridge Permits

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the procedures for processing license applications. It limits public hearings to cases where there are substantial issues relevant to the effect that a proposed bridge will have on reasonable navigation needs. Until now, any difference of opinion between any person and the Coast Guard triggered a hearing. This gave rise to many unnecessary hearings. The amendment will eliminate the mandatory hearings when a person desiring a hearing does not raise any substantial issues relevant to reasonable navigation needs. In addition, the amendment clarifies the definition of the term "permit" and prescribes the time limit for applications for time extensions.

EFFECTIVE DATE: This amendment is effective on July 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (202–426–1477).

SUPPLEMENTARY INFORMATION: On January 24, 1977, the Coast Guard published proposed amendments to 33 CFR Parts 114 and 115 (42 FR 3181) to better define and describe the policy and procedures followed by the Coast Guard in processing bridge permit actions. One comment was received concerning the definition of a permit.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Mr. George B. Entwistle, Project Manager, and Mr. Michael N. Mervin, Project Attorney.

DISCUSSION OF MAJOR COMMENTS

The comment requested that the definition of a permit be amended to eliminate Coast Guard review of roadways remote from a bridge which are more of an environmental than of a navigational concern. The National Environmental Policy Act of 1969 requires the Coast Guard to assess the environmental impacts of all causal relationships between a proposed bridge and construction of new highways. The definition of a permit has no effect upon this process. Therefore, it would be pointless to change the definition.

In consideration of the foregoing, the proposed amendments are adopted without change as set forth below.

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: June 1, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

1. Revising § 114.05(h) to read as follows:

§ 114.05 Definitions.

* * * * *

(h) *Permit.* The term "permit" means the license permitting construction of bridges and approaches thereto in or over navigable waters of the United States, issued under the rules and regulations in this subchapter.

* * * * *

2. Adding a new § 114.45 immediately after § 114.40 to read as follows:

§ 114.45 Applications, extensions of time.

Extensions of time to commence or complete construction of a bridge or remove a bridge that has been replaced as an element of a permitted bridge project must be submitted to, and received by, the District Commander at least 30 days before the existing permit expires to allow the permit to remain in effect until the final agency action is taken.

3. Amending § 115.60(c)(1) to read as follows:

§ 115.60 Procedures for handling applications for bridge construction authorization.

* * * * *

(c) *Notice and hearing.* (1) Public hearings are held on those cases where there are substantial issues relevant to the effect that the proposed bridge will have on the reasonable needs of navigation. The Chief, Office of Marine Environment and Systems, issues the notice of public hearing described in paragraph (c)(2) of this section.

* * * * *

(Sec. 5, 28 Stat. 362, as amended; (33 U.S.C. 401, 491, 525, 535; 49 U.S.C. 1655(g)(6); 49 CFR 1.46(c)(8), (9), (10), (q))

[FR Doc.77-15961 Filed 6-3-77;8:45 am]

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 36—LOAN GUARANTY

Maximum Interest Rate

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The amended regulations will increase the maximum permissible interest rate on new guaranteed, insured and direct loans.

The Administrator is required to establish a maximum interest rate for loans guaranteed, insured or made by the Veterans Administration as he finds the loan market demands. All recent indicators have shown that the loan market has become more restrictive. The maximum rate in effect for VA guaranteed loans has not been sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substanial discounts. To assure a continuing supply of funds for home mortgages through the VA Loan Guaranty program it has been determined that an increase in the maximum permissible rate is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for VA guaranteed and insured mortgages.

At present no change is being made in the maximum interest rate applicable to the mobile home loan program except as to loans to purchase mobile home lots. The lender's return on these loans appears competitive with other forms of consumer financing to which this type of loan is comparable and no change in rate is justified at this time.

A loan to purchase a mobile home lot is similar to other real estate loans, and for the purpose of assuring a continuing supply of funds and consistency with other real estate programs, the rate on these loans is also being increased.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave. NW., Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The increase in the maximum allowable rate of interest is accomplished by amending §§ 36.4212(a) (2) and (3), 36.4311(a) and 36.4503(a), Title 38, Code of Federal Regulations.

Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of mortgage funds pending the ultimate final date which would necessarily be more than 30 days after publication in proposed form.

1. In § 36.4212, paragraph (a) (2) and (3) is revised to read as follows:

§ 36.4212 **Interest rates and late charges.**

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to May 31, 1977.

* * * * *

(2) 8½ percent simple interest per annum for that portion of the loan which finances the purchase of a lot and the cost of necessary site preparation, of any.

(3) 8½ percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 12 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed $2,500.

* * * * *

2. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 **Interest rates.**

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 8½ per centum per annum, effective May 31, 1977, the interest rate on any loan guaranteed or insured wholly or in part on or after such date may not exceed 8½ per centum per annum on the unpaid principal balance.

* * * * *

3. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 **Amount and amortization.**

(a) The original principal amount of any loan made on or after October 1, 1976, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $17,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by the Veterans Administration shall bear interest at the rate of 8½ percent per annum.

* * * * *

Approved: May 26, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc.77-15883 Filed 6-3-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 730-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to the Great Basin Unified Air Pollution Control District's Rules and Regulations for Alpine, Inyo, and Mono Counties in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Great Basin Unified Air Pollution Control District's Rules and Regulations with the exception of regulations concerning new source review, emergency episodes, and malfunction.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, Attn.: David R. Souten, Chief, California SIP Section, Air Programs Branch, 100 California Street, San Francisco, CA 94111 (415-556-7288).

SUPPLEMENTAL INFORMATION: On July 25, 1973, revisions to the Alpine County, Inyo County, and Mono County Air Pollution Control Districts' (APCD) Rules and Regulations were submitted to EPA. On July 1, 1974, these Counties joined together to form the Great Basin Unified APCD. On January 10, 1975, and April 21, 1976, revised Rules and Regulations for the Great Basin Unified APCD were submitted to EPA. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). On March 24, 1977 (42 FR 15926), EPA proposed approval of the April 21, 1976, submission since it superseded all previous submissions.

The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rule-

making is available in the Proposed Rulemaking Notice.

This action also rescinds the current disapproval notice and substitute regulation for the Great Basin Unified APCD in 40 CFR 52.224 (a) and (b).

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: May 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is revised as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

* * * * *

(21) * * *

(xxiv) Alpine County APCD:

(A) Rules 1.1 to 1.5, 2.1 to 2.12, 3.1 to 3.3, 4.1 to 4.11, 5.1 to 5.18, and Agricultural Burning Implementation Plan.

(xxv) Inyo County APCD:

(A) Rules 1.1 to 1.5, 2.1 to 2.12, 3.1 to 3.3, 4.1 to 4.12, 5.1 to 5.18, and Agricultural Burning Rules and Regulations.

(xxvi) Mono County APCD:

(A) Rules 1.1 to 1.5, 2.1 to 2.12, 3.1 to 3.3, 4.1 to 4.11, 5.1 to 5.18, Regulation VI, Regulation VII, and Agricultural Burning Rules and Regulations.

* * * * *

(23) * * *

(ii) Mono County APCD:

(A) Rules 2.8-1 and 2.9.

* * * * *

(26) * * *

(xiii) Great Basin Unified APCD:

(A) Rules 1.1 to 1.5, 2.1 to 2.12, 3.1 to 3.11, 4.1 to 4.12, and 5.1 to 5.18.

* * * * *

(31) * * *

(i) * * *

(A) * * *

(B) Rules 100 to 107, 215, 300 to 303, 400 to 402, 404 to 413, 416 to 421, 500 to 501, 600 to 616, and 800 to 817.

* * * * *

2. Section 52.224, paragraph (a) is revised as follows:

§ 52.224 General requirements.

(a) * * *

(7) Great Basin Valleys Intrastate:

(i) Great Basin Unified APCD.

* * * * *

[FR Doc.77-15820 Filed 6-3-77;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 201—GRANTS TO STATES FOR PUBLIC ASSISTANCE PROGRAMS

Repayment of Federal Funds by Installments

AGENCY: Department of Health, Education, and Welfare (HEW).

ACTION: Final regulation.

SUMMARY: This new regulation will permit State agencies owing significant amounts of Federal funds to repay them by installments over a period up to 3 years. The regulations apply when hardship would result from immediate repayment of the entire amount. The policy was developed in response to State agency requests. It will avoid potential adverse impact on the assistance programs.

EFFECTIVE DATE: The regulation will be effective on June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Kent Dickson, area code 202-245-1738

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published on January 19, 1977 (42 FR 3664) with opportunity for public comment through March 7, 1977. A single comment, from a State agency:

1. Pointed out that the regulation does not specify payment amounts; and

2. Suggested that a standard form be developed to track repayments. The Department prefers to leave States free to set payments at or above the established minimums and to use whatever controls are appropriate to their accounting systems.

The purpose of the regulations is to prevent fiscal hardship on States, and to avoid the possibility that they might be forced to cut back the public assistance programs and thus adversely affect beneficiaries of those programs.

The basis for the regulation is the Department's belief that the policy will enable States to operate their programs more effectively. No change has been made in response to the single comment. The regulation, as proposed, is adopted.

45 CFR Part 201 is amended by adding a new § 201.66 to read as follows:

§ 201.66 Repayment of Federal funds by installments.

(a) *Basic Conditions.* When a State has been reimbursed Federal funds for expenditures claimed under titles I, IV-A, VI, X, XIV, XVI (AABD), XIX or XX which are later determined to be unallowable for Federal financial participation, the State may make repayment of such Federal funds in installments provided:

(1) The amount of the repayment exceeds 2½ percent of the estimated annual State share for the program in which the unallowable expenditure occurred as set forth in paragraph (b) of this section; and

(2) The State has notified the Regional Commissioner in writing of its intent to make installment repayments. Such notice must be given prior to the time repayment of the total was otherwise due.

(b) *Criteria governing installment repayments.* (1) The number of quarters over which the repayment of the total unallowable expenditures will be made will be determined by the percentage the total of such repayment is of the estimated State share of the annual expenditures for the specific program against which the recovery is made, as follows:

Total repayment amount as percentage of State share of annual expenditures for the specific program	*Number of quarters to make repayment*
2.5 pct. or less	1
Greater than 2.5, but not greater than 5	2
Greater than 5, but not greater than 7.5	3
Greater than 7.5, but not greater than 10	4
Greater than 10, but not greater than 15	5
Greater than 15, but not greater than 20	6
Greater than 20, but not greater than 25	7
Greater than 25, but not greater than 30	8
Greater than 30, but not greater than 47.5	9
Greater than 47.5, but not greater than 65	10
Greater than 65, but not greater than 82.5	11
Greater than 82.5, but not greater than 100	12

The quarterly repayment amounts for each of the quarters in the repayment schedule shall not be less than the following percentages of the estimated State share of the annual expenditures for the program against which the recovery is made.

For each of the following quarters:	*Repayment installment may not be less than these percentages*
1 to 4	2.5
5 to 8	5.0
9 to 12	17.5

If the State chooses to repay amounts representing higher percentages during the early quarters, any corresponding reduction in required minimum percentages would be applied first to the last scheduled payment, then to the next to the last payment, and so forth as necessary.

(2) The latest SRS-OA-25 submitted by the State shall be used to estimate the State's share of annual expenditures for the specific program in which the unallowable expenditures occurred. That estimated share shall be the sum of the State's share of the estimates (as shown on the latest SRS-OA-25) for four quarters, beginning with the quarter in which the first installment is to be paid.

(3) In the case of a program terminated by law or by the State, the actual State share—rather than the estimate—shall be used for determining whether the amount of the repayment exceeds 2½% of the annual State share for the program. The annual State share in these cases will be determined using payments computable for Federal funding as reported for the program by the State on its Quarterly Statement of Expenditures (SRS-OA-41) reports submitted for the last four quarters preceding the date on which the program was terminated.

(4) Repayment shall be accomplished through adjustment in the quarterly grants over the period covered by the repayment schedule.

(5) The amount of the repayment for purpose of paragraphs (a) and (b) of this section may not include any amount previously approved for installment repayment.

(6) The repayment schedule may be extended beyond 12 quarterly installments if the total repayment amount exceeds 100% of the estimated State share of annual expenditures.

In these circumstances, the criteria in paragraphs (b) (1) and (2) or (3) of this section, as appropriate, shall be followed for repayment of the amount equal to 100% of the annual State share. The remaining amount of the repayment shall be in quarterly amounts not less than those for the 9th through 12th quarters.

(7) The amount of a retroactive claim to be paid a State will be offset against any amounts to be, or already being, repaid by the State in installments, under the same title of the Social Security Act. Under this provision the State may choose to:

(i) Suspend payments until the retroactive claim due the State has, in fact, been offset; or

(ii) Continue payments until the reduced amount of its debt (remaining after the offset), has been paid in full.

This second option would result in a shorter payment period.

A retroactive claim for the purpose of this regulation is a claim applicable to any period ending 12 months or more prior to the beginning of the quarter in which the payment is to be made by the Service.

(8) Interest on repayments will not be charged unless mandated by court order.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program Nos. 13.714—Medical Assistance Program; 13.724—Public Assistance—State and Local Training; 13.748—Work Incentive Program—Child Care—Employment Related Supportive Services; 13.754—Public Assistance—Social Services; 13.761—Public Assistance—Maintenance Assistance (State Aid); and 13.711—Social Services for Low Income and Public Assistance Recipients.)

NOTE.—The Department had determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: June 1, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-15905 Filed 6-3-77;8:45 am]

CHAPTER III—OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 304—FEDERAL FINANCIAL PARTICIPATION

Repayment of Federal Funds by Installments

AGENCY: Office of Child Support Enforcement, HEW.

ACTION: Final regulation.

SUMMARY: This new regulation will permit State agencies owing significant amounts of Federal funds to repay them by installments over a period up to 3 years. The regulation applies when hardship would result from immediate repayment of the entire amount. The policy was developed in response to State agency requests. It will avoid potential adverse impact on the child support enforcement program.

EFFECTIVE DATE: The regulation is effective on June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Suzanne M. Duval, 202-472-4510.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published on January 19, 1977 (42 FR 3663) with opportunity for public comment through March 7, 1977. A single comment from a State agency suggested that the method and the amount of repayment which qualifies for installments be open to negotiation.

The Department prefers to establish a minimum repayment schedule and leave States free to set payments at or above the established minimum.

The purpose of the regulation is to prevent fiscal hardship on States, and to avoid the possibility that they might be forced to cut back the child support enforcement program and thus adversely affect beneficiaries of this program. The basis for the regulation is the Department's belief that the policy will enable States to operate their programs more effectively. No change has been made in response to the single comment. The regulation, as proposed, is adopted.

45 CFR Part 304 is amended by adding a new Section 304.40 to read as follows:

§ 304.40 Repayment of Federal funds by installments.

(a) *Basic Conditions.* When a State has been reimbursed Federal funds for expenditures claimed under title IV-D, which is later determined to be unallowable for Federal financial participation, the State may make repayment of such Federal funds in installments provided: (1) The amount of the repayment exceeds 2½ percent of the estimated annual State share of expenditures for the IV-D program as set forth in paragraph (b) of this section; and

(2) The State has notified the OCSE Regional Representative in writing of its intent to make installment repayments. Such notice must be given prior to the time repayment of the total was otherwise due.

(b) *Criteria governing installment repayments.* (1) The number of quarters over which the repayment of the total unallowable expenditures will be made will be determined by the percentage the total of such repayment is of the estimated State share of the annual expenditures for the IV-D program as follows:

Total repayment amount as percentage of State share of annual expenditures for the IV-D program	*Number of quarters to make repayment*
2.5 percent or less	1
Greater than 2.5, but not greater than 5	2
Greater than 5, but not greater than 7.5	3
Greater than 7.5, but not greater than 10	4
Greater than 10, but not greater than 15	5
Greater than 15, but not greater than 20	6
Greater than 20, but not greater than 25	7
Greater than 25, but not greater than 30	8
Greater than 30, but not greater than 47.5	9
Greater than 47.5, but not greater than 65	10
Greater than 65, but not greater than 82.5	11
Greater than 82.5, but not greater than 100	12

The quarterly repayment amounts for each of the quarters in the repayment schedule shall not be less than the following percentages of estimated State share of the annual expenditures for the program against which the recovery is made.

For each of the following quarters:	*Repayment installment may not be less than these percentages than these percentages*
1 to 4	2.5
5 to 8	5.0
9 to 12	17.5

If the State chooses to repay amounts representing higher percentages during the early quarters, any corresponding reduction in required minimum percentages would be applied first to the last scheduled payment, then to the next to

the last payment, and so forth as necessary.

(2) The latest OCSE-OA-25 submitted by the State shall be used to estimate the State's share of annual expenditures for the IV-D program. That estimated share shall be the sum of the State's share of the estimates (as shown on the latest OCSE-OA-25) for four quarters, beginning with the quarter in which the first installment is to be paid.

(3) In case of termination of the program, the actual State share—rather than the estimate—shall be used for determining whether the amount of the repayment exceeds 2½ percent of the annual State share for the IV-D program. The annual State share in these cases will be determined using payments computable for Federal funding as reported for the program by the State on its Quarterly Statement of Expenditures (SRS-OA-41) reports submitted for the last four quarters preceding the date on which the program was terminated.

(4) Repayment shall be accomplished through adjustment in the quarterly grants over the period covered by the repayment schedule.

(5) The amount of the repayment for purpose of paragraphs (a) and (b) of this section may not include any amount previously approved for installment repayment.

(6) The repayment schedule may be extended beyond 12 quarterly installments if the total repayment amount exceeds 100% of the estimated State share of annual expenditures.

In these circumstances, the criteria in paragraphs (b) (1) and (2) or (3) of this section, as apropriate, shall be followed for repayment of the amount equal to 100% of the annual State share. The remaining amount of the repayment shall be in quarterly amounts not less than those for the 9th through 12th quarters.

(7) The amount of a retroactive claim to be paid a State will be offset against any amounts to be, or already being, repaid by the State in installments, under the same title of the Social Security Act. Under this provision the State may choose to:

(i) Suspend payments until the retroactive claim due the State has, in fact, been offset; or

(ii) Continue payments until the reduced amount of its debt (remaining after the offset), has been paid in full. This second option would result in a shorter payment period.

A retroactive claim for the purpose of this regulation is a claim applicable to any period ending 12 months or more prior to the beginning of the quarter in which the payment is to be made by the Service.

(8) Interest on repayments will not be charged unless mandated by court order.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.679—Child Support Enforcement.)

NOTE.—The Department has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

JOSEPH F. CALIFANO, Jr.,
Secretary.

[FR Doc.77-15906 Filed 6-3-77;8:45 am]

Title 46—Shipping

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-006]

PART 2—VESSEL INSPECTIONS

Reports of Casualties and Accidents

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is deleting 46 CFR 2.20-60 because the essence of the regulations for requiring a written notice from the master, owner, agent, or operator of a vessel involved in a marine casualty is contained in 46 CFR Part 4 and 33 CFR Part 173 and 174. These regulations are superfluous and should not be in Part 2 of 46 CFR since this part applies only to vessel inspections.

EFFECTIVE DATE: July 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, (202 426-1477). The principal persons involved in drafting this rule are: Lieutenant Anthony Regalbuto, Project Manager, and Mr. Michael Mervin, Project Attorney.

SUPPLEMENTARY INFORMATION: The Coast Guard finds under 5 U.S.C. 553(b)(3)(B) that a notice of proposed rulemaking is unnecessary since the deletion of 46 CFR 2.20-60 merely eliminates duplication of 46 CFR Part 4 and 33 CFR Parts 173 and 174.

§ 2.20-60 [Revoked]

In consideration of the foregoing, Part 2 of Title 46 of the Code of Federal Regulations is amended by deleting § 2.20-60.

(33 U.S.C. 361, 46 U.S.C. 526p, 49 U.S.C. 1655 (b), 49 CFR 1.45(a)(2) and 1.46(b).)

Dated: May 31, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77-15960 Filed 6-3-77;8:45 am]

[CGD 75-041]

PART 31—INSPECTION AND CERTIFICATION

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

Loading Information for Tank Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: This rule making amends the regulations for tank vessels to require all tank vessels over 300 feet in length to have the loading information required for vessels subject to the load line regulations in Parts 42 and 45 of Title 46. The effect of these regulations will be to require new tank barges and other new tank vessels operating solely on inland waters or on special service coastwise voyages to have this information. The load line regulations already require other tank vessels to have the information.

This rule making is based upon a Coast Guard review of recent barge designs. The review shows that several new barges have proportions similar to a T-2 tanker and that vessels with these proportions that are over 300 feet in length can be subject to unsafe stress levels if not properly loaded. The requirements are also based upon investigation of barge casualties in which improper loading led to structural damage.

EFFECTIVE DATE: These amendments become effective on September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (202-426-1477).

SUPPLEMENTARY INFORMATION: A notice of proposed rule making was published in the FEDERAL REGISTER on October 12, 1976 (41 FR 44711). Interested persons were invited to submit written comments before November 29, 1976. Five comments were received two of which concurred with the rules as proposed.

DRAFTING INFORMATION: The principal persons involved in drafting these rules are: Ralph E. Johnson, Project Manager, Office of Merchant Marine Safety, and William R. Register, Project Attorney, Office of Chief Counsel.

DISCUSSION OF MAJOR COMMENTS

One commenter proposed that the loading information required by the proposed rules be simplified and restricted to the sequence of loading, unloading, and ballasting operations. The current regulations in Parts 42 and 45 describe in general terms the type of loading information required for a tank vessel. The operator of the vessel is in the best position to develop for Coast Guard approval the specific form and content of the information; and, accordingly, no detailed requirements concerning the form and content of loading information are included in the regulations.

One commenter concluded that since the proposed regulations did not reference existing barges, the notice was not applicable to these vessels. The commenter's conclusion is correct and the final regulations have been clarified to provide that they apply to vessels on which construction begins after the regulations become effective.

One commenter objected to the proposed regulations as being examples of over-regulation. He said that large numbers of barges are loaded each year; and

that because few mishaps have occurred, a requirement for these vessels to have approved loading information is not justified. The Coast Guard disagrees. Use of the loading information required by the regulations on vessels over 300 feet in length can prevent improper loading and casualties of the type described in the notice of proposed rulemaking. If one of these vessels is improperly loaded, it can be subject to unsafe stress levels and a resulting structural failure.

The final regulations have been clarified to emphasize that they apply both to tank barges carrying cargoes regulated under Subchapter D of Title 46 and to tank barges carrying cargoes regulated under Part 151 of Subchapter O. Both the proposed regulations and the preamble to the notice of proposed rule making state that the regulations would apply to all tank vessels. This includes both tankships and tank barges whether manned or unmanned.

In consideration of the foregoing, Parts 31 and 151 of Title 46, Code of Federal Regulations, are amended as follows:

1. By adding a new § 31.10–32 to Part 31 to read as follows:

§ 31.10–32 Loading information–TB/ALL.

(a) This section applies to each tankship and tank barge the construction of which begins on or after

(b) Each tank vessel over 300 feet in length must have the loading information prescribed in either § 42.15–1(a) or § 45.105(a) of this chapter. For tank vessels subject to the Load Line Acts the information must be approved by the Commandant or by a recognized classification society that is approved by the Commandant. For tank vessels not subject to the Load Line Acts loading information must be approved by the Commandant. If the vessel is a tankship, the approved information must be provided to the master of the vessel. If the vessel is a tank barge, the information must be provided to the person in charge of handling the cargo during loading or offloading of the barge.

(2) By adding in Part 151 a new paragraph (C–1) after paragraph (c) of § 151.01–10 to read as follows:

§ 151.01–10 Application of vessel inspection regulations.

* * * * *

(c–1) Each unmanned tank barge constructed on or after that carries in bulk a cargo listed in Table 151.01–10(b) and that is certificated under Subchapter I of this chapter must meet the loading information requirements in § 31.10–32 of this chapter.

* * * * *

(46 U.S.C. 170 and 391a; 49 U.S.C. 1655(b); 49 CFR 1.46.)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: May 31, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant

[FR Doc. 77–15962 Filed 6–3–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77–341]

PART 1—PRACTICE AND PROCEDURE

Amendment of Rules Concerning Motions for Extensions of Time

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Commission, on its own motion, revised the rule on granting of motions for extension of time for filing pleadings in rulemaking proceedings. Originally, we had applied the rule only to deadlines specified after the matter became a docketed proceeding. The rule, as revised, requires that motions for extension of time to file responses to petitions for rulemaking, replies to such responses, comments filed in response to notice of proposed rulemaking, replies to such comments and other papers, shall be filed at least 7 days before the currently specified filing date. The rule was revised in order to achieve uniformity of treatment.

DATE: Effective June 10, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1977.

Released: May 27, 1977.

Order. In the matter of amendment of §§ 1.46(b) and 1.415(e) rules of practice and procedure.

1. The Commission has under consideration §§ 1.46 and 1.415 of its rules, dealing with the granting of motions for extension of time for filing pleadings. Section 1.46(b) presently provides that such motions for extension of time to file comments, reply comments or other papers in rule making proceedings conducted shall be filed at least 7 days before the currently specified filing date. In rulemaking proceedings the comments of all participants are due on the same day, and the identity of participants is not known until their comments have been filed. Therefore motions for extension of time cannot be served on other participants and since the extension, if granted, is almost invariably granted to all participants, rather than only to the moving party, interested persons become informed of the grant only through a public notice issued by the Commission. In such circumstances, last minute requests for extension of time are a source of possible prejudice to other participants.

2. Until now we have applied the rule only to deadlines specified after the matter has become a docketed proceeding. Thus, motions for extension of time in which to file responses to a petition for rule making or replies to those responses, steps which occur before the case is docketed, are not now covered by the rule. In our experience this difference in treatment is not a necessary one and does not lead to fairer administration of the rule making process. In fact our experience suggests to us the appropriateness of changing our approach to achieve uniformity of treatment. We are also revising § 1.415(e) which refers the reader to § 1.46(b) for the time limits for filing extensions in rulemaking cases. As revised it will include responses to petitions for rulemaking and replies to such responses in addition to comments filed in response to notices of proposed rulemaking and replies to such comments. Because the amendment is procedural, the prior notice provisions of 5 U.S.C. are inapplicable—see section 553(b)(3)(A)—and we shall amend §§ 1.46(b) and 1.415(e) at this time.

3. *Accordingly, it is ordered*, Effective June 10, 1977, That §§ 1.46(b) and 1.415(e) of the rules and practice and procedure are amended as set forth below. Authority for this amendment is contained in sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r).

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

1. Section 1.46(b) is revised to read as follows:

§ 1.46 Motions for extension of time.

(a) * * *

(b) Motions for extension of time in which to file responses to petitions for rulemaking, replies to such responses, comments filed in response to notice of proposed rulemaking, replies to such comments and other papers in rulemaking proceedings conducted under Subpart C of this part shall be filed at least 7 days before the filing date. If a timely motion is denied, the responses and comments, replies thereto, or other papers need not be filed until 2 business days after the Commission acts on the motion. In emergency situations, the Commission will consider a late-filed motion for a brief extension of time related to the duration of the emergency and will consider motions for acceptance of the responses and comments, replies thereto or other papers filed after the filing date.

2. Section 1.415(e) is revised to read as follows:

§ 1.415 Comments and replies.

* * * * *

(e) For time limits for filing motions for extension of time for filing responses to petitions for rulemaking, replies to such responses, comments filed in response to notices of proposed rulemaking, replies to such comments, see § 1.46(b).

[FR Doc.77-15893 Filed 6-3-77;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-103/112; Amendments]

CONSOLIDATION OF HAZARDOUS MATERIALS REGULATIONS

Extension of Placarding Compliance Date

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: This rule extends the date after which the new diamond shaped hazardous materials placards prescribed last year under this docket must be displayed on transport vehicles, freight containers and portable tanks, from July 1, 1977, to January 1, 1978. This action is taken because the Bureau has concluded that the new placards may not be available to certain shippers and carriers by the current July 1, 1977, mandatory compliance date. The extension will provide an additional six months to assure that an adequate supply of placards is available and distributed to both shippers and carriers.

EFFECTIVE DATE: This amendment altering the mandatory compliance date is effective on June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. C. H. Thompson, Acting Director, Office of Hazardous Materials Operations, 2100 Second Street SW., Washington, D.C. 20590, Phone 202-426-0656.

SUPPLEMENTARY INFORMATION:

On December 30, 1976, the Materials Transportation Bureau (MTB) published its final document under Docket No. HM-103/112. However, since that time, additional information has come to the MTB's attention through petitions which indicate that additional consideration should be given to the mandatory compliance date for placarding. Generally, petitioners contend that, for a variety of an adequate supply of new placards will reasons, more time is needed to assure be available by the mandatory compliance date.

Because of the difficulties not only of obtaining placards but also of having them distributed to all shippers and carriers, the MTB is granting a limited extension to the mandatory compliance date to assure that full compliance is possible at the time compliance is required. As a consequence of this amendment, the new placarding requirements established last year in Subpart F of Part 172 need not be complied with until January 1, 1978, provided that placarding requirements in effect on June 30, 1976, are complied with instead.

This document is a relaxation of existing requirements and does not impose new requirements. For this reason, and because of the need for the Department to act in advance of the existing July 1, 1977, compliance date, public notice is dispensed with. This action is not expected to increase costs to Federal, State, or local governments, to consumers, or to the businesses affected, and should not have any significant environmental impact. Primary drafters of this document are Joseph T. Horning and Chris Caseman, Office of Hazardous Materials Operations, Regulations Development Branch, and Douglas A. Crockett, Office of the Assistant General Counsel for Materials Transportation Law.

In consideration of the foregoing, the 103/112 (41 FR 15972, April 15, 1976), effective date provision in Docket HM- appearing at 41 FR 16131, as amended at 41 FR 26014 (June 24, 1976), 41 FR 40691 (September 20, 1976), and 41 FR 57018 (December 30, 1976), is further amended by revising the fourth numbered paragraph and amending the sixth numbered paragraph to read as follows:

Effective date:

* * * * *

(4) Compliance with the provisions of this amendment appearing in Subpart F of Part 172 (Placarding) need not be complied with until January 1, 1978.

* * * * *

(6) For purposes of the application of Part 174 (except § 174.25) to rail cars from July 1, 1976, to January 1, 1978, placards specified in this amendment, and placards specified under regulations in effect on June 30, 1976, may be treated as equivalent according to the following table:

* * * * *

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

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on June 2, 1977.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.77-16052 Filed 6-3-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Second Rev. S.O. 1237]

PART 1033—CAR SERVICE

Regulations for Return of Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Second Revised Service Order No. 1237).

SUMMARY: Second Revised Service Order No. 1237 requires the return of owning railroads of open hopper cars owned by: The Baltimore and Ohio Railroad, Bassemer and Lake Erie Railroad, Consolidated Rail Corporation, Louisville and Nashville Railroad, Norfolk and Western Railway, The Pittsburgh and Lake Erie Railroad, and Western Maryland Railway. There are shortages of hopper cars on the lines of the beneficiary railroads for transporting shipments of coal, ore, construction aggregates, and other bulk freight.

DATES: Effective 11:59 p.m., May 31, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of May 1977.

It appearing, that an acute shortage of hopper cars exists in certain sections of the country; that shippers are being deprived of hopper cars required for loading coal, resulting in an emergency, forcing curtailment of their operations, and thus creating great economic loss and reduced employment of their personnel; that coal stockpiles of several utility companies are being depleted; that hopper cars, after being unloaded, are being appropriated and being retained in services for which they have not been designated by the car owners; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of hopper cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1237 Regulations for return of hopper cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty, either via the reverse of the service route or direct, as agreed to by the owner, all hopper cars owned by the following railroads:

The Baltimore and Ohio Railroad Company. Reporting Marks: B&O.

Bessemer and Lake Erie Railroad Company. Reporting Marks: B&LE.

The Chesapeake and Ohio Railway Company. Reporting Marks: C&O.

Consolidated Rail Corporation. Reporting Marks: BA-BWC-CNJ-CR-DL&W-ELERIE - LV - NH - NYC - PC - P&E - PRR-RDG-TOC.

Louisville and Nashville Railroad Company. Reporting Marks: L&N-NC-MON.

Norfolk and Western Railway Company. Reporting Marks: ACY-N&W-NKP-P&WV-VGN-WAB.

The Pittsburgh and Lake Erie Railroad Company. Reporting Marks: P&LE.

Western Maryland Railway Company.[1] Reporting Marks: WM.

(2) Carriers named in paragraph (1) above are prohibited from loading all hopper cars foreign to their lines and must return such cars to the owner, either via the reverse of the service route or direct, as agreed to by the owner.

(b) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by the Director or Assistant Director of the Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

(c) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded hopper car, described in this order, contrary to the provisions of the order.

(d) The term hopper cars, as used in this order, means freight cars having a mechanical designation listed under the heading "Class 'H'-Hopper Car Type" in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 403 issued by W. J. Trezise, or reissues thereof.

(e) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(f) *Effective date.* This order shall become effective at 11:59 p.m., May 31, 1977.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1977, unless otherwise modified, changed or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15 and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Robert S. Turkington not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15826 Filed 6-3-77;8:45 am]

[1] Addition.

SUBCHAPTER B—OTHER REGULATIONS RELATING TO TRANSPORTATION

[Ex Parte No. MC-88]

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

Subpart B—Common Carrier Freight Tariff and Classification

TERMINAL AND SPECIAL SERVICES

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This document prescribes uniform nationwide rules and charges for the detention of motor vehicles. The rules are intended to eliminate unlawful practices related to detention, and to untangle confused and overlapping detention rules.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Section of Rates, Rm. 5334, Interstate Commerce Commission, 12th and Constitution Ave. NW., Washington, D.C. 20423 (202–275–7693).

SUPPLEMENTARY INFORMATION: On May 22, 1973, the Interstate Commerce Commission instituted Ex Parte No. MC 88, Detention of Motor Vehicles—Nationwide, by publishing as a proposed rule a new § 1307.35(e) of Part 1307 of Title 49 of the Code of Federal Regulations (38 FR 17254). As a result of the proceedings in Ex Parte No. MC 88, the Commission adopted a new § 1307.35 (e). The new rules were published at 41 FR 22067. The rules published here are final rules adopted after reconsideration of the record in Ex Parte No. MC 88. Five differences exist between the final rules adopted here and the rules adopted earlier.

The first three differences are contained in section 4, Free Time. The first change is in the number of weight/time categories. The prior rules provided five categories, with "over 36,000" as the last. The final rules have created an additional category for shipments weighing 44,000 pounds or more, with 420 minutes of free time. The second change appears in paragraph (b) of section 4. The final rules have added the words "not to exceed 120 minutes" at the end of the sentence comprising section 4(b). The third change is the addition of the following words to section 4(b) after "not to exceed 120 minutes": "except that, when open-top equipment is used in lieu of closed equipment to transport shipments of unpalletized general commodities, free time will be as provided in section 4(a)."

The fourth and fifth differences between the prior rules and the final rules appear in the portion of the rules entitled (2) "Detention—vehicles without power units spotting or dropping of trailers." The fourth change is in Section 2, Definitions, at paragraph (a), where the final rules have added the words "with or without wheels" after the words "mobile units."

The fifth and last difference between the prior and final rules appears in Section 3, Computation of free time. This section has been modified to read as follows:

Section 3: Computation of free time. (a) Commencement of spotting and free time: (1) Spotted trailers will be allowed 24 consecutive hours of free time for loading or unloading. For trailers spotted for unloading, such time shall commence at the time of placement of the trailer at the site designated by consignee, or other party designated by consignee. For trailers spotted for loading, such time shall commence when the trailer is spotted at the site specifically designated by the consignor or a party designated by consignor, or, in the case of an empty trailer placed at the premises of consignor without specific request, at the time a specific request to spot a trailer is received by the carrier. Upon expiration of the 24 hours of free time, detention charges will accrue as provided in section 4.

ROBERT L. OSWALD,
Secretary.

Amend 49 CFR 1307.35 "terminal and special services," by adding thereto as 1307.35(e) the following:

§ 1307.35 Terminal and special services.

* * * * *

(e) *Detention of vehicles.* The following rules apply to all shipments except shipments of household goods; commodities transported in bulk in tank truck, dump trucks, vehicles pneumatically unloaded and other self-unloading mechanized vehicles; heavy and specialized commodities or articles requiring special equipment or handling outside the scope of the certificates of general-commodities motor common carriers; livestock other than ordinary; articles picked up or delivered to railroad care having prior or subsequent transportation by rail; and shipments to consignors and consignees of waterborne commerce at marine terminal facilities to the extent that the marine terminal operator would be liable to the motor common carrier for truck detention under any applicable detention rule promulgated pursuant to the authority of the Federal Maritime Commission. All common carriers of property by motor vehicle subject to Interstate Commerce Act excepting those specifically excluded, *supra,* shall publish the below rule entitled "Detention—Vehicles With Power Units" and all such carriers engaging in the practice of spotting shall also publish the below rule entitled "Detention—Vehicles Without Power Units." The wording of the following rules may not be varied except where clearly warranted by exceptional circumstances, and where appropriate, the word "rule" may be substituted for the word "item."

(1) *Detention—vehicles with power units.* This item applies when carrier's vehicles with power units are delayed or detained on the premises of consignor, consignee, or on other premises designated by them, or as close thereto as conditions will permit, subject to the following provisions:

SECTION 1. *General provisions.* (a) This item applies only to vehicles which have been ordered or used to transport shipments subject to truckload rates. For the purposes of this item, the term truckload rates shall be considered to include shipments moving on a rate subject to a stated minimum weight of 10,000 pounds or more when not

designated as a truckload rate, and, where applicable, shipments which are assessed charges based on the provisions of a Capacity Load Rule or are accorded Exclusive Use of Vehicle Service or Expedited Service.

(b) This item applies only when vehicles are delayed or detained at the premises of pickup or delivery and only when such delay or detention is not attributable to the carrier.

(c) Free time for each vehicle will be as provided in section 4. After the expiration of free time, charges will be assessed as provided in section 5.

(d) The detention charges due the carrier will be assessed against the consignor in the case of loading and against the consignee in the case of unloading, irrespective of whether line-haul charges are prepaid or collect. When detention charges are attributable to others who are not parties to the Bill of Lading contract, the charges will be assessed against the shipment. (See Note A.)

(e) When carrier's employee assists in loading, unloading, or checking the freight, this item will apply whether or not the power unit is actually detained.

(f) Nothing in this item shall require a carrier to pick up or deliver freight at hours other than the carrier's normal business hours. This shall not be construed to restrict a carrier's ability to accept pickup and delivery scheduled at hours other than its normal business hours.

SEC. 2. *Definitions.* The following general definitions will apply when the below terms are used in this item:

(a) "Vehicle" means straight trucks or tractor-trailer combinations used for the transportation of property.

(b) "Loading" includes furnishing carrier with the Bill of Lading, forwarding directions, or other documents necessary for forwarding the shipment.

(c) "Unloading" includes: (1) Surrender of the Bill of Lading to the carrier on shipments billed "To Order,"

(2) Payment of lawful charges to the carrier when required prior to delivery of the shipment,

(3) Notification to the carrier that vehicle is unloaded, and

(4) Signing of the delivery receipt.

(d) "Premises" means the entire property at or near the physical facilities of consignor, consignee, or other designated party.

(e) "Site" means a specific location at or on the premises of consignor, consignee, or other designated party.

(f) "Normal nonworking periods" means meal, coffee, and rest breaks.

(g) "Pallet" means pallets, platforms, shipping racks, or skids with or without standing sides or ends, but without tops.

SEC. 3. *Computation of time.* (a) Commencement and termination: (1) The time per vehicle shall begin to run upon actual notification by carrier's employee to a responsible representative of consignor, consignee, or other designated party at the premises of pickup or delivery of the arrival of the vehicle for loading or unloading. Upon such notification, the responsible representative of consignor, consignee, or other designated party may enter the time of arrival onto the carrier's detention record. If the representative refuses to enter the time, then carrier's employee will enter the time and it will be binding upon each party.

(2) Time shall end upon completion of loading or unloading except as provided for in paragraph (c) of this section. Upon such completion, a responsible representative of consignor, consignee, or other designated party may enter the time of completion onto the carrier's detention record. If the representative refuses to enter the time, then carrier's employee will enter the time and it will be binding.

(b) Prearranged scheduling: (1) Subject to the provisions of item,[1] and upon reasonable request of consignor, consignee, or others designated by them, carrier will without additional charge enter into a prearranged schedule for arrival of the vehicle for loading or unloading.

(2) When the carrier enters into a prearranged schedule with consignor, consignee, or others designated by them for the arrival of the vehicle for loading or unloading and carrier is unable for any reason to maintain such schedule, the carrier and consignor, consignee, or other party designated by them have the option to agree to a mutually convenient and prompt alternative arrival time or in the event such agreement cannot be reached, to compute detention time against consignor, consignee, or other party designated by them from carriers actual arrival time subject to an extension of 15 minutes for each 15 minutes, or fraction thereof, the vehicle is delayed beyond the originally scheduled arrival time; in no case shall such extended free time exceed 60 minutes.

(3) If carrier's vehicle arrives prior to scheduled time, times shall begin to run from the scheduled time or actual time loading or unloading commences, whichever is earlier.

(c) Conditions governing the computation of time: (1) Computations of time are subject to and are to be made within the normal business hours at the designated place of pickup or delivery. If carrier is permitted to work beyond this period, such working time shall also be included.

(2) When loading or unloading is not completed at the end of normal business hours at the designated place, consignor, consignee, or other party designated by them shall have the option: (i) To request that the vehicle without power remain at its premises subject to the provisions of section 4(d); or

(ii) to request that the vehicle with power be returned to carrier without being subject to charges for storage or redelivery so long as free time has not yet expired. When the vehicle is returned for completion of loading or unloading the computation of any remaining free time will resume. If free time has expired and detention has begun to accrue, storage or redelivery charges as may otherwise be provided will be assessed.

(3) When carrier's employee interrupts loading or unloading by the taking of any normal nonworking periods, any such time will be excluded from the computation of free time, or will be excluded from the computation of time in excess of free time.

SEC. 4. *Free time.* (a) Free time shall be computed as follows:

Actual weight in pounds per vehicle stop (see Note B):

	Free time in minutes per vehicle stop
Less than 10,000	120
10,000 but less than 20,000	180
20,000 but less than 28,000	240
28,000 but less than 36,000	300
36,000 but less than 44,000	360
44,000 or more	420

(b) When at least 90 percent of the shipment weight (exclusive of pallet weight) is loaded on pallets, or when shipment is loaded on flat-bed or other open-top equipment, free time shall be one-half that amount normally applicable for the weight, not to exceed 120 minutes, except that, when open-top equipment is used in lieu of closed equipment to transport shipments of unpalletized general commodities, free time will be as provided in section 4(a).

(c) When more than one truckload shipment or a truckload shipment and one or more less-than-truckload (LTL) or any quantity (AQ) shipments are loaded on one vehicle at the premises of consignor or when more than one truckload shipment or a truckload shipment and one or more LTL or AQ shipments are unloaded from one vehicle at the premises of consignee or other designated party, the combined weight will be used to determine free time; in all other instances the individual shipment weight will be used.

(d) When a vehicle with power is changed to a vehicle without power at the request of consignor, consignee, or other party designated by them, the free time and detention charges will be applied as follows: (1) If the change is requested and made before the expiration of free time for a vehicle with power, free time will cease immediately at the time the request is made, and detention charges for vehicles without power will immediately commence with no further free time allowed.

(2) If the change is requested and made after the expiration of free time for a vehicle with power, free time and detention charges will be computed on the basis of a vehicle with power up to the time the change was requested. In addition thereto, the vehicle will immediately be charged detention for vehicles without power with no further free time allowed.

(e) When a vehicle is both unloaded and reloaded, each transaction will be treated independently of the other, except that when loading is begun before unloading is completed, free time for loading shall not begin until free time for unloading has elapsed.

(f) Loading or unloading at more than one site at or on the premises of consignor, consignee, or other designated party shall constitute one vehicle stop.

SEC. 5. *Charges.* When the delay per vehicle beyond free time is 1 hour or less the charge will be $18. For each additional 30 minutes or fraction thereof, the charge will be $9.

SEC. 6. *Records.* A written record of the following information must be maintained by the carrier on all truckload shipments, and such record must be kept available at all times:

(a) Name and address of consignor, consignee, or other party at whose premises freight is loaded or unloaded;

(b) Identification of vehicle tendered for loading or unloading;

(c) Date and time of notification of arrival of the vehicle for loading or unloading;

(d) Date and time loading or unloading is begun;

(e) Date and time loading or unloading is completed;

(f) Date and time vehicle is released by consignor, consignee, or other party at place of pickup or delivery after loading or unloading is completed;

(g) Actual time of nonworking periods;

(h) Total actual weight of shipment or shipments loaded or unloaded;

(i) Whether articles are tendered under a prearranged schedule for loading or unloading;

(j) Date and time specified for vehicles tendered under a prearranged schedule;

(k) Alternative arrangement made when a vehicle is tendered under a prearranged schedule that was not adhered to.

NOTE A.—At those marine terminal facilities where Federal Maritime Commission detention charges apply, carrier charges pursuant to this rule will be assessed against the shipment to the extent such charges exceed those of the Federal Maritime Commission.

NOTE B.—Also applies to the last vehicle used in transporting overflow truckload shipments, or to vehicles containing truckload shipments stopped for completion of loading or partial unloading.

[1] Here the carrier is to identify its pertinent rule

(2) Detention-vehicles without power units spotting or dropping of trailers.

NOTE.—This item applies when carrier's vehicles without power units are delayed or detained on the premises of consignor, consignee, or on other premises designated by them, or as close thereto as conditions will permit, subject to the following provisions:

SEC. 1. *General provisions.* (a) Subject to the availability of equipment, carrier will spot empty or loaded trailers for loading or unloading on the premises of consigner, consignee, or on other premises designated by them, or as close thereto as conditions will permit.

(b) Loading or unloading will be performed by consignor, consignee, or other party designated by them. When carrier's employee assists in loading, unloading, or checking the freight, the detention provisions governing vehicles with power units will apply. In the case of spotting for loading the Bill of Lading must show "Shipper Load and Count."

(c) Carrier responsibility for safeguarding shipments loaded into trailers spotted under the provisions of this item shall begin when loading has been completed and possession thereof is taken by the carrier.

(d) Carrier responsibility for safeguarding shipments unloaded from trailers spotted under the provisions of this item shall cease when the trailer is spotted at or on the site designated by consignee.

(e) Free time for each vehicle will be as provided in section 3. After the expiration of free time charges will be assessed as provided in section 4.

(f) The detention charges due the carrier will be assessed against the consignor in the case of spotting for loading and against the consignee in the case of spotting for unloading irrespective of whether charges are prepaid or collect.

(g) Nothing in this item shall require a carrier to pick up or deliver spotted trailers at hours other than carrier's normal hours. This shall not be construed as a restriction on carrier's ability to pick up or deliver spotted trailers at hours other than its normal business hours.

Section 2. Definitions. The following general definitions will apply when the below terms are used in this item:

(a) "Vehicle means tractor-trailer combinations used for the transportation of property where: (1) "Trailer means mobile units with or without wheels, used to transport property and,

(2) "Tractor" means a mechanically powered unit used to propel or draw a trailer or trailers upon the highways.

(b) "Loading" includes: (1) Furnishing of the Bill of Lading, forwarding directions, or other documents necessary for forwarding the shipment to the carrier, and

(2) Notification to the carrier that the vehicle is loaded and ready for forwarding.

(c) "Unloading" includes: (1) Surrender of the Bill of Lading to the carrier on shipments billed "To Order."

(2) Payment of lawful charges to the carrier when required prior to delivery of the shipment.

(3) Notification to the carrier that vehicle is unloaded and ready for forwarding, and

(4) Signing of delivery receipt.

(d) "Premises" means the entire property at or near the physical facilities of consignor, consignee, or other designated party.

(e) "Site" means a specific location at or on the premises of consignor, consignee, or other designated party.

(f) "Spotting" means the placing of a trailer at a specific site designated by consignor, consignee, or other party designated by them, detaching the trailer, and leaving the trailer in full possession of consignor, consignee, or other designated party unattended by carrier's employee and unaccompanied by power unit. Carrier will not move the trailer until such time as it has received notification, pursuant to section 3, that the trailer is ready for pickup. Consignor, consignee, or other designated party may shift the spotted trailer with its own power units at its own expense and risk for the purpose of loading or unloading.

Section 3: Computation of free time. (a) Commencement of spotting and free time: (1) Spotted trailers will be allowed 24 consecutive hours of free time for loading or unloading. For trailers spotted for unloading, such time shall commence at the time of placement of the trailer at the site designated by consignee, or other party designated by consignee. For trailers spotted for loading, such time shall commence when the trailer is spotted at the site specifically designated by the consignor or a party designated by consignor, or, in the case of an empty trailer placed at the premises of consignor without specific request, at the time a specific request to spot a trailer is received by the carrier. Upon the expiration of the 24 hours of free time, detention charges will accrue as provided in Section 4.

(2) When any portion of the 24-hour free time extends into a Saturday, Sunday, or holiday (national, State, or municipal), the computation of time for such portion shall resume at 12:01 a.m. on the next day which is neither a Saturday, Sunday, or holiday.

(3) Free time shall not begin on a Saturday, Sunday, or holiday (national, State, or municipal), but at 8 a.m. on the next day which is neither a Saturday, Sunday, or holiday.

(4) When a trailer is both unloaded and reloaded, each transaction will be treated independently of the other, except that when loading is begun before unloading is completed, free time for loading shall not begin until free time for unloading has elasped.

(b) Termination of spotting and notification: (1) Consignor, consignee, or other party designated by them shall notify carrier when loading or unloading has been completed and the trailer is available for pickup. The trailer will be deemed to be spotted and detention charges will accrue until such time as the carrier receives notification. Notification by telephone if convenient and practical, otherwise by telegraph or mail shall be given by consignor, consignee, or other party designated by them at their own expense, to carrier or other party designated by carrier for the purpose of advising such carrier or other party that the spotted trailer has been loaded or unloaded and is ready for pickup. If notification is by telephone, carrier may require written confirmation.

(2) When a spotted trailer is changed to a vehicle with power at the request of consignor, consignee, or other party designated by them, the free time and detention charges will be applied as follows:

(i) If the change is requested and made before the expiration of free time for a spotted trailer, free time will cease immediately at the time the request is made, and detention charges for vehicles with power will immediately commence with no further free time allowed.

(ii) If the change is requested and made after the expiration of free time for a spotted trailer, free time and detention charges will be computed on the basis of a spotted trailer up to the time the change was requested. In addition thereto, the vehicle will immediately be charged detention for a vehicle with power with no further free time allowed.

(c) Prearranged scheduling: (1) Subject to the provisions of item*, and upon reasonable request of consignor, consignee, or others designated by them, carrier will without additional charge enter into a prearranged schedule for the arrival of trailers for spotting.

(2) If carrier's vehicle arrives later than the scheduled time, time shall begin to run from actual time spotting commences.

(3) If carrier's vehicle arrives prior to scheduled time, time shall begin to run from the scheduled time or actual time spotting commences, whichever is earlier.

Section 4. Charges. (a) General detention charges: After the expiration of free time as provided in section 3(a) of this item, charges for detaining a trailer will be assessed as follows:

	Charge
(1) For each of the first and second 24-hour periods or fraction thereof (Saturdays, Sundays, and holidays excepted)	$25
(2) For each of the third and fourth 24-hour periods or fraction thereof (Saturdays, Sundays, and holidays excepted)	35
(3) For the fifth and each succeeding 24-hour period or fraction thereof (Saturdays, Sundays, and holidays included)	50

(b) Delay in trailer pickup charge: No additional charge will be made for picking up trailers spotted under this item when such pickup can be performed within 30 minutes after arrival of driver and power unit at premises of consignor, consignee, or other party designated by them. When a delay of more than 30 minutes is encountered, detention charges for vehicles with power will commence from the time of arrival as specified in item [1].

(c) Strike interference charge: When because of a strike of its employees, it is impossible for consignor, consignee, or other party designated by them to make available for movement by carrier any partially loaded, or empty trailers detained on their premises, a detention charge of $25 per day or fraction thereof, per trailer will be made following expiration of free time. Saturdays, Sundays, and holidays shall be included after the 4th day of charges.

Section 5. Records. A written record of the following information must be maintained by the carrier on all spotted trailers, and such record must be kept available at all times:

(a) Name and address of consignor, consignee, or other party at whose premises the trailer is spotted;

(b) Identification of spotted trailer;

(c) Date and time of arrival of the trailer for spotting;

(d) Date and time notification that the spotted trailer is ready for pickup was received by carrier;

(e) Date and time of arrival and departure of power unit for pickup;

(f) Total actual weight of shipment when pickup is delayed in excess of 30 minutes;

(g) The duration of any strike induced delay on the premises of consignor, consignee, or other designated party which resulted in carrier's inability to obtain the release of any trailer, and any actions taken to hasten the release;

(h) Whether trailers are spotted under a prearranged schedule;

(i) When trailers are spotted under a prearranged schedule, the date and time specified therefor.

NOTE: For the purposes of this item the terms spotting and dropping are considered to be synonymous and are used interchangeably.

[FR Doc.77-15921 Filed 6-3-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

Reports to the Commission Concerning Defects and Noncompliance

AGENCY: U.S. Nuclear Regulatory Commission.

[1] Here the carrier is to identify its pertinent rule.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require directors and responsible officers of firms and organizations building, operating or owning NRC-licensed facilities, or conducting NRC-licensed activities, to report failures to comply with regulatory requirements and defects in components which may result in a substantial safety hazard. Also covered under the new regulations are directors and responsible officers of firms and organizations supplying safety-related components, including safety-related design, testing, inspection and consulting services.

NRC licensees and other firms and organizations covered by the new regulations must adopt internal procedures to assure that safety-related defects and noncompliance are brought to the attention of responsible officers and directors. Those individuals, in turn, will be required to notify the Commission within two days, and file a written report within five days, of learning of the defect or noncompliance. Directors and responsible officers may designate an employee to provide on their behalf the notification to NRC.

EFFECTIVE DATE: July 6, 1977. Certain obligations under the effective rule are not imposed until January 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. W. E. Campbell, Jr., Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone 301-443-6917.

SUPPLEMENTARY INFORMATION: On March 3, 1975, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (40 FR 8832) for public comment proposed amendments to 10 CFR Parts 2, 31, 35, and 40 of its regulations and a proposed new Part 21 to its regulations, "Reporting of Defects and Noncompliance."

The purpose of these proposed amendments and the new proposed Part 21 is to implement section 206 of Pub. L. 93-438, the Energy Reorganization Act of 1974, as amended.

Section 206 of the Energy Reorganization Act of 1974 as amended, reads as follows:

"NONCOMPLIANCE

Sec. 206. (a) Any individual director, or responsible officer of a firm constructing, owning, operating, or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended, or pursuant to this Act, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity—

(1) Fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards, or

(2) Contains a defect which could create a substantial safety hazard, as defined by regulations which the Commission shall promulgate, shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(b) Any person who knowingly and consciously fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended.

(c) The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended.

(d) The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section."

The new Part 21 requires that the directors and responsible officers of organizations that construct, own, operate or supply components of a facility or activity that is licensed or otherwise regulated by the Nuclear Regulatory Commission inform the Commission if they obtain information reasonably indicating that such facility, activity or basic component fails to comply with regulatory requirements relating to substantial safety hazards or that such facility, activity, or basic component contains a defect which could create a substantial safety hazard. Part 21 additionally requires that these organizations establish procedures to evaluate deviations from the technical requirements of the procurement documents or inform the purchaser concerning the deviation in order that the purchaser evaluate the deviation or have it evaluated. The organizations subject to the regulations in Part 21 may be many procurement tiers away from the holder of a license to construct or operate a nuclear power reactor. If the license is other than to construct or operate a nuclear power reactor, then the organizations subject to the regulations are those organizations that directly supply the licensee of the facility or activity. The directors and responsible officers of these organizations will be subject to a fine of up to $5,000 for each deliberate failure to notify the Commission of the existence of such a defect or noncompliance. The organizations subject to Part 21 regulations must also maintain records, post copies of specific documents, inform procurement subtier suppliers of their responsibility under Part 21 and allow inspection of their premises, facilities and activities by duly authorized representatives of the Commission.

The Commission requires that a number of reports and notifications be submitted by licensees. These include licensee's report of incidents required by 10 CFR § 20.403, permit holder's notification of design or construction deficiencies required by 10 CFR § 50.55(e)(1), and licensee's report of theft or attempted theft of special nuclear material required by 10 CFR § 70.52. Other Commission regulations provide for receipt of various kinds of requests or information. For example, 10 CFR § 2.802 provides for petitions to issue, amend or rescind regulations, and 10 CFR § 19.16 provides for notifications from workers in regard to radiological hazards. These communications from licensees and the public are methods of securing information concerning the implementation effectiveness of Commission regulations. This information is an essential ingredient of sound regulation. The regulations in Part 21 add another required notification. Moreover, a longstanding Commission policy encourages individuals not subject to the Commission's regulations to report to the Commission a known or suspected defect or failure to comply; as authorized by law, the identity of anyone so reporting will be withheld from disclosure.

The Commission intends to examine closely the implementation of new Part 21 with a view to making any clarifying or other changes that may be warranted in light of experience. In particular, insufficient experience has been accumulated to permit the writing of a detailed regulation at this time that would provide a precise correlation of all factors pertinent to the question of what is a significant safety hazard. Part 21 is intended in this regard as an initial effort to identify a number of the factors involved with the question of significant safety hazard. Further, additional guidance in the form of regulatory guides may be developed should experience with the application of Part 21 indicate the need for such guidance. In this regard, we expect that the implementation efforts of the staff and those subject to the rule, and the views of interested members of the public, should provide the necessary data base for such further guidance.

During the development of the Energy Reorganization Act, Congress identified a need for an effective means to "anticipate problems before the event." Section 206 was developed to fill that need.

Interested persons have been afforded an opportunity to participate in the development of Part 21 and the associated amendments. The more important changes made to Part 21 are listed below and are based largely on consideration of public comments.

(1) The individuals subject to the notification requirement of Part 21 have been restricted to (a) directors and (b) officers vested with executive authority over activities subject to this part. These individuals may identify an individual that is authorized to provide notification to the Commission.

This new part is only one of many of the reporting channels that concerns defects or noncompliance, e.g., 10 CFR 50.55(e). Individuals that are subject to the requirements of this part that become aware of a defect or noncompliance that is outside the responsibility of their organization and individuals that are not subject to the requirements of any part of Title 10 are encouraged, but not required, to report to the Commission known or suspected defects or failure to comply. As authorized by law, the identity of anyone so reporting will be withheld from disclosures.

(2) Part 21, as adopted, does not specify whether firms may reimburse directors or responsible officers for civil penalties imposed pursuant to these regulations, and instead allows this question

to be resolved in accordance with applicable state law.[1]

(3) The definition of "defect," as applied to components themselves, has been restricted to include those deviations in delivered components from technical requirements included in the procurement document that could, on the basis of an evaluation, create a substantial safety hazard. Defect also includes a deviation in a portion of the facility subject to the construction permit or manufacturing licensing requirement of Part 50 provided the deviation could, on the basis of an evaluation, create a substantial safety hazard and the portion of the facility containing the deviation has been offered to the purchaser for acceptance. Whether such deviation could result in a substantial safety hazard is determined during the deviation evaluation. Defect also includes, for facilities licensed for operation under Part 50, any condition or circumstance involving a basic component that could contribute to the exceeding of a safety limit as set forth in the operating license technical specifications.

(4) The definition of basic components has been divided into two parts: one part is applicable to power reactors licensed under Part 50 and the second part is applicable to activities licensed pursuant to Parts 30, 40, 70 or 71 and to other Part 50 facilities. For power reactors the definition is based on the guidance given in Regulatory Guide 1.29. For other facilities and activities, basic component has been defined as components that are directly procured by a licensee.

(5) Substantial safety hazard has been defined in terms of a major reduction in the degree of protection provided to the public health and safety. Criteria that are appropriate for determination of creation of a substantial safety hazard include:

Moderate exposure to, or release of, licensed material.

Major degradation of essential safety-related equipment.

Major deficiencies involving design, construction, inspection, test or use of licensed facilities or material.

To the extent that failures to comply or defects in a security system can contribute to a substantial safety hazard, such failures and defects are within the scope of Part 21.

(6) Clarification has been added in regard to which organizations are subject to the regulations in this part. In order that the implementation of Section 206 may be responsive to anticipation of problems before the event, a broad interpretation of "firm constructing, owning, operating or supplying the components" has been used. This interpretation includes not only licensees and organizations that physically construct facilities and physically supply components but also includes organizations that only supply safety-related services such as design, inspection, testing or consultation; e.g., site geological investigations.

This interpretation is intended to bring within the regulations in this part those various organizations that can create a substantial safety hazard considering the various methods available for consultation, procurement, design, construction, testing, inspection and operation. These methods include not only the option where design and construction are accomplished by one organization but also the option where one organization does safety-related consultation, another safety-related design and another the actual construction. Each of these organizations has the capability to generate a defect and a potential for failing to comply.

If a basic component is fabricated by one organization using a design from another organization, the possibility of creating a substantial safety hazard, based upon a faulty design, exists upon the delivery of the design that fails to comply or contains a defect. A substantial safety hazard, based upon faulty fabrication, exists upon delivery of the item that fails to comply or contains a defect. In many instances the competent fabricating organization possesses neither the capability nor the responsibility for design.

It is realized that during the activities of design and consultation there may be a stage of conceptual design or consultation in regard to feasibility. Only when such a design or consultation can result in the creation of a substantial safety hazard is it appropriate to specify the applicability of Part 21 in the procurement document.

(7) The organizations subject to this part must establish procedures to provide for correction of deviations, or evaluation of deviations or informing purchasers of the deviation so the purchaser may evaluate the deviation. These procedures must also provide for informing a responsible officer or director of the organization of any resulting defect or failure to comply.

(8) The provisions of Part 21 imposing requirements that procurement documents state, when applicable, that Part 21 applies would be applicable only to future procurements of facilities, components or services; i.e., procured on or after six months after the effective date of Part 21.

The effective date of § 21.6 dealing with posting requirements, § 21.21(a) dealing with adopting procedures, and § 21.51 dealing with maintenance of records has been deferred until January 6, 1978, to allow organizations to establish and implement procedures.

(9) The organizations subject to the regulations in Part 21 are required to prepare records in connection with their activities to assure compliance with this part. Prior to destruction of such records they shall be offered to the purchaser. It is not anticipated that these documentation requirements will necessitate any change in the documentation procedures of organizations that are presently complying with 10 CFR 50 Appendix B, "Quality Assurance Criteria."

(10) Clarification has been added in regard to the applicability of Part 21 to the licensed activity of exporting. Persons who are only licensed to export nuclear facilities or materials and who do not otherwise construct or operate facilities or activities or supply components are not subject to the new part. Individuals subject to this part need report only defects or failures to comply which could create a substantial safety hazard in facilities and activities within the United States. Further, any notification submitted in accordance with Part 21 may be exempt from public disclosure as authorized by law.

After consideration of the comments received and other factors, the Commission has adopted the amendments to Parts 2, 31, 34, 35, 40, and 70, and the new Part 21 set forth below.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following new Part 21 of Title 10, Chapter 1 of the Code of Federal Regulations, and amendments to Parts 2, 31, 34, 35, 40, and 70 are published as a document subject to codification to be effective on July 6, 1977.

PART 2—RULES OF PRACTICE

Paragraph (b) of § 2.200 is amended to read as follows:

§ 2.200 Scope of subpart.

* * * * *

(b) This subpart also prescribes the procedures in cases initiated by the staff to impose civil penalties pursuant to section 234 of the Act and section 206 of the Energy Reorganization Act of 1974.

2. A new Part 21 is added to read as follows:

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

General Provisions

Sec.

[1] While agreeing with all other aspects of this Notice, Commissioner Gilinsky believes firms should be barred from reimbursing directors or responsible officers for civil penalties imposed pursuant to Part 21, on grounds that Section 206 of the Energy Reorganization Act is designed to impose personal responsibility, a goal undermined by corporate indemnification. The Commission majority believes that, in accordance with the general practice of federal regulatory bodies in analogous matters, the question of the reimbursability of such penalties should be governed by applicable state law. It notes that the adverse publicity attendant on being subjected to a civil penalty for knowingly concealing significant safety information would be a major incentive to compliance, irrespective of whether the person so penalized was later reimbursed by the company. The majority also recognizes the serious practical difficulty in attempting to differentiate between a properly awarded salary increase or bonus and an improper reimbursement. If Part 21 does not in practice appear to be accomplishing its purpose, the Commission will, of course, propose changes deemed appropriate in light of experience.

AUTHORITY: Sec. 161, Pub. L. 83-703, 68 Stat. 948; sec. 234, Pub. L. 91-161, 83 Stat. 444; sec. 206, Pub. L. 93-438, 88 Stat. 1246 (42 U.S.C. 2201, 2282, 5846).

GENERAL PROVISIONS

§ 21.1 Purpose.

The regulations in this part establish procedures and requirements for implementation of section 206 of the Energy Reorganization Act of 1974. That section requires any individual director or responsible officer of a firm constructing, owning, operating or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974, who obtains information reasonably indicating: (a) That the facility, activity or basic component supplied to such facility or activity fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards or (b) that the facility, activity, or basic component supplied to such facility or activity contains defects, which could create a substantial safety hazard, to immediately notify the Commission of such failure to comply or such defect, unless he has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

§ 21.2 Scope.

The regulations in this part apply, except as specifically provided otherwise in Parts 31, 34, 35, 40, or 70 of this chapter, to each individual, partnership, corporation, or other entity licensed pursuant to the regulations in this chapter to possess, use, and/or transfer within the United States source, byproduct and/or special nuclear materials, or to construct, manufacture, possess, own, operate and or transfer within the United States, any production or utilization facility, and to each director (see § 21.3(f)) and responsible officer (see § 21.3(j)) of such a licensee. The regulations in this part apply also to each individual, corporation, partnership or other entity doing business within the United States, and each director and responsible officer of such organization, that constructs (see § 21.3 (c)) a production or utilization facility licensed for manufacture, construction or operation (see § 21.3(h)) pursuant to Part 50 of this chapter or supplies (see § 21.3(l)) basic components (see § 21.3 (a)) for a facility or activity licensed, other than for export, under Parts 30, 40, 50, 70, or 71. Nothing in these regulations should be deemed to preclude an individual not subject to the regulations in this part from reporting to the Commission a known or suspected defect or failure to comply and, as authorized by law, the identity of anyone so reporting will be withheld from disclosure.[1]

§ 21.3 Definitions.

As used in this part, (a) "Basic component," when applied to nuclear power reactors means a plant structure, system, component or part thereof necessary to assure (1) the integrity of the reactor coolant pressure boundary, (2) the capability to shut down the reactor and maintain it in a safe shutdown condition, or (3) the capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 100.11 of this chapter: "Basic component," when applied to other facilities and when applied to other activities licensed pursuant to Parts 30, 40, 50, 70 or 71 of this chapter, means a component, structure, system, or part thereof that is directly procured by the licensee of a facility or activity subject to the regulations in this part and in which a defect (see § 21.3(d)) or failure to comply with any applicable regulation in this chapter, order, or license issued by the Commission could create a substantial safety hazard (see § 21.3(k)). In all cases "basic component" includes design, inspection, testing, or consulting services important to safety that are associated with the component hardware, whether these services are performed by the component supplier or others.

(b) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(c) "Constructing" or "construction" means the design, manufacture, fabrication, placement, erection, installation, modification, inspection, or testing of a facility or activity which is subject to the regulations in this part and consulting services related to the facility or activity that are important to safety.

(d) "Defect" means:

(1) A deviation (see §21.3(e)) is a basic component delivered to a purchaser for use in a facility or an activity subject to the regulations in this part if, on the basis of an evaluation (see § 21.3(g)), the deviation could create a substantial safety hazard; or

(2) The installation, use, or operation of a basic component containing a defect as defined in paragraph (d)(1) of this section; or

(3) A deviation in a portion of a facility subject to the construction permit or manufacturing licensing requirements of Part 50 of this chapter provided the deviation could, on the basis of an evaluation, create a substantial safety hazard and the portion of the facility containing the deviation has been offered to the purchaser for acceptance; or

(4) A condition or circumstance involving a basic component that could contribute to the exceeding of a safety limit, as defined in the technical specifications of a license for operation issued pursuant to Part 50 of this chapter.

(e) "Deviation" means a departure from the technical requirements included in a procurement document (see § 21.3 (i)).

(f) "Director" means an individual, appointed or elected according to law, who is authorized to manage and direct the affairs of a corporation, partnership or other entity. In the case of an individual proprietorship, "director" means the individual.

(g) "Evaluation" means the process accomplished by or for a licensee to determine whether a particular deviation could create a substantial safety hazard.

(h) "Operating" or "operation" means the operation of a facility or the conduct of a licensed activity which is subject to the regulations in this part and consulting services related to operations that are important to safety.

(i) "Procurement document" means a contract that defines the requirements which facilities or basic components must meet in order to be considered acceptable by the purchaser.

(j) "Responsible officer" means the president, vice-president or other individual in the organization of a corporation, partnership, or other entity who is vested with executive authority over activities subject to this part.

(k) "Substantial safety hazard" means a loss of safety function to the extent that there is a major reduction in the degree of protection provided to public health and safety for any facility or activity licensed, other than for export, pursuant to Parts 30, 40, 50, 70 and 71.

(l) "Supplying" or "supplies" means contractually responsible for a basic component used or to be used in a facility or activity which is subject to the regulations in this part.

§ 21.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 21.5 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part should be addressed to the Director,

[1] NRC Regional Offices will accept collect telephone calls from individuals who wish to speak to NRC representatives concerning nuclear safety-related problems. The location and telephone numbers (for nights and holidays as well as regular hours) are listed below:

Region:	
I (Philadelphia)	(215) 337-1150
II (Atlanta)	(404) 221-4503
III (Chicago)	(312) 858-2660
IV (Dallas)	(817) 334-2841
V (San Francisco)	(415) 486-3141

Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or to the Director of a Regional Office at the address specified in Appendix D of Part 20 of this chapter. Communications and reports also may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C.; at 7920 Norfolk Avenue, Bethesda, Md.; or at a Regional Office at the location specified in Appendix D of Part 20 of this chapter.

§ 21.6 Posting requirements.

Each individual partnership, corporation or other entity subject to the regulations in this part, shall post current copies of the following documents in a conspicuous position on any premises, within the United States where the activities subject to this part are conducted (1) the regulations in this part, (2) Section 206 of the Energy Reorganization Act of 1974, and (3) procedures adopted pursuant to the regulations in this part.

If posting of the regulations in this part or the procedures adopted pursuant to the regulations in this part is not practicable, the licensee or firm subject to the regulations in this part may, in addition to posting section 206, post a notice which describes the regulations/procedures, including the name of the individual to whom reports may be made, and states where they may be examined.

The effective date of this section has been deferred until January 6, 1978.

§ 21.7 Exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

NOTIFICATION

§ 21.21 Notification of failure to comply or existence of a defect.

(a) Each individual, corporation, partnership or other entity subject to the regulations in this part shall adopt appropriate procedures to (1) provide for (i) evaluating deviations or (ii) informing the licensee or purchaser of the deviation in order that the licensee or purchaser may cause the deviation to be evaluated unless the deviation has been corrected; and (2) assure that a director or responsible officer is informed if the construction or operation of a facility, or activity, or a basic component supplied for such facility or activity:

(i) Fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order or license of the Commission relating to a substantial safety hazard, or

(ii) Contains a defect. The effective date of this paragraph has been deferred until January 6, 1978.

(b) (1) A director or responsible officer subject to the regulations of this part or a designated person shall notify the Commission when he obtains information reasonably indicating a failure to comply or a defect affecting (i) the construction or operation of a facility or an activity within the United States that is subject to the licensing requirements under Parts 30, 40, 50, 70 or 71 and that is within his organization's responsibility or (ii) a basic component that is within his organization's responsibility and is supplied for a facility or an activity within the United States that is subject to the licensing requirements under Parts 30, 40, 50, 70 or 71. The above notification is not required if such individual has actual knowledge that the Commission has been adequately informed of such defect or such failure to comply.

(2) Initial notification required by this paragraph shall be made within two days following receipt of the information. Notification shall be made to the Director, Office of Inspection and Enforcement, or to the Director of a Regional Office. If initial notification is by means other than written communication, a written report shall be submitted to the appropriate Office within 5 days after the information is obtained. Three copies of each report shall be submitted to the Director, Office of Inspection and Enforcement.

(3) The written report required by this paragraph shall include, but need not be limited to, the following information, to the extent known:

(i) Name and address of the individual or individuals informing the Commission.

(ii) Identification of the facility, the activity, or the basic component supplied for such facility or such activity within the United States which fails to comply or contains a defect.

(iii) Identification of the firm constructing the facility or supplying the basic component which fails to comply or contains a defect.

(iv) Nature of the defect or failure to comply and the safety hazard which is created or could be created by such defect or failure to comply.

(v) The date on which the information of such defect or failure to comply was obtained.

(vi) In the case of a basic component which contains a defect or fails to comply, the number and location of all such components in use at, supplied for, or being supplied for one or more facilities or activities subject to the regulations in this part.

(vii) The corrective action which has been, is being, or will be taken; the name of the individual or organization responsible for the action; and the length of time that has been or will be taken to complete the action.

(viii) Any advice related to the defect or failure to comply about the facility, activity, or basic component that has been, is being, or will be given to purchasers or licensees.

(4) The director or responsible officer may authorize an individual to provide the notification required by this paragraph, provided that, this shall not relieve the director or responsible officer of his or her responsibility under this paragraph.

(c) Individuals subject to paragraph (b) may be required by the Commission to supply additional information related to the defect or failure to comply.

PROCUREMENT DOCUMENTS

§ 21.31 Procurement documents.

Each individual, corporation, partnership or other entity subject to the regulations in this part shall assure that each procurement document for a facility, or a basic component issued by him, her or it on or after January 6, 1978 specifies, when applicable, that the provisions of 10 CFR Part 21 apply.

INSPECTIONS, RECORDS

§ 21.41 Inspections.

Each individual, corporation, partnership or other entity subject to the regulations in this part shall permit duly authorized representatives of the Commission, to inspect its records, premises, activities, and basic components as necessary to effectuate the purposes of this part.

§ 21.51 Maintenance of records.

(a) Each licensee of a facility or activity subject to the regulations in this part shall maintain such records in connection with the licensed facility or activity as may be required to assure compliance with the regulations in this part.

(b) Each individual, corporation, partnership, or other entity subject to the regulations in this part shall prepare records in connection with the design, manufacture, fabrication, placement, erection, installation, modification, inspection, or testing of any facility, basic component supplied for any licensed facility or to be used in any licensed activity sufficient to assure compliance with the regulations in this part. After delivery of the facility or component and prior to the destruction of the records relating to evaluations (see § 21.3(g)) or notifications to the Commission (see § 21.21), such records shall be offered to the purchaser of the facility or component. If such purchaser determines any such records:

(1) Are not related to the creation of a substantial safety hazard, he may authorize such records to be destroyed, or

(2) Are related to the creation of a substantial safety hazard, he shall cause such records to be offered to the organization to which he supplies basic components or for which he constructs a facility or activity.

If such purchaser is unable to make the determination as required above then the responsibility for making the determination shall be transferred to the individual, corporation, partnership, or other entity subject to the regulations in this part that issued the procurement document to the purchaser. In the event that the determination cannot be made at that level then the responsibility shall be transferred in a similar manner to another individual, corporation, partner-

ship, or other entity subject to the regulations in this part, until, if necessary, the licensee shall make the determination.

(c) Records that are prepared only for the purpose of assuring compliance with the regulations in this part and are not related to evaluations or notifications to the Commission may be destroyed after delivery of the facility or component.

(d) The effective date of the section has been deferred until January 6, 1978.

ENFORCEMENT

§ 21.61 Failure to notify.

Any director or responsible officer subject to the regulations in this part who knowingly and consciously fails to provide the notice required by § 21.21 shall be subject to a civil penalty in an amount not to exceed $5,000 for each failure to provide such notice and a total amount not to exceed $25,000 for all failures to provide such notice occurring within any period of thirty consecutive days. Each day of failure to provide the notice required by § 21.21 shall constitute a separate failure for the purpose of computing the applicable civil penalty.

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B-180225 (RO 446).

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

§§ 31.2, 31.5, 31.7, 31.8, 31.10, and 31.11 [Amended]

3. In 10 CFR Part 31, § 31.2(a) is amended by changing the words "Parts 19, 20, and 36" to read "Parts 19, 20, 21, and 36."

4. In 10 CFR Part 31, §§ 31.5(c)(10), 31.7(b), 31.8(c), 31.10(b)(3), and 31.11(f) are amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

§ 34.31 [Amended]

5. In 10 CFR Part 34, § 34.31(a)(2) is amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

§ 35.31 [Amended]

6. In 10 CFR Part 35, § 35.31(e) is amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

PART 40—LICENSING OF SOURCE MATERIAL

§§ 40.22 and 40.25 [Amended]

7. In 10 CFR Part 40, § 40.22(b) is amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

8. In 10 CFR Part 40, § 40.25(e) is amended by changing the words "Part 20" to read "Parts 20 and 21."

PART 70—SPECIAL NUCLEAR MATERIAL

§ 70.19 [Amended]

9. In 10 CFR Part 70, § 70.19(c) is amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

Dated at Washington, D.C., this 1st day of June 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-15987 Filed 6-3-77;8:45 am]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1065]

[Docket No. AO-86-A37]

MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice extends the date for filing exceptions to a recommended decision concerning a proposed amended order regulating the handling of milk in the Nebraska-Western Iowa marketing area. An interested party requested additional time to complete an analysis of the decision.

DATE: Exceptions now are due on or before June 20, 1977.

ADDRESS: Exceptions should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-7183).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing, issued September 15, 1976; published September 20, 1976; (41 FR 40495).

Notice of extension of time for filing briefs, issued November 12, 1976; published November 17, 1976 (41 FR 50696).

Recommended decision, issued May 10, 1977; published May 16, 1977 (42 FR 24744).

Notice is hereby given that the time for filing exceptions to the above listed recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is hereby extended to June 20, 1977.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on June 2, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-16005 Filed 6-3-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 77-SW-4]

AIRWORTHINESS DIRECTIVES

Bell Model 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to revise AD 77-10-05 to require installation of the Blade Inspection System (BIS) in accordance with newly revised procedures and instructions contained in Bell Helicopter Textron Service Instruction No. 212—61, Revision No. 2, dated March 28, 1977. These revised procedures and instructions relocate the BIS conductive paint to improve detection of cracks in the blade retention area.

DATES: Comments must be received by July 2, 1977. Proposed effective date of the AD will be August 15, 1977.

ADDRESS: Send comments on this proposal in triplicate to: Regional Counsel, ASW-7, Attn. Docket 77-SW-4, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number 817-624-4911, Extension 516.

SUPPLEMENTARY INFORMATION: Amendment 39-2893 (42 FR 10853), AD 77-10-5, effective June 12, 1977, requires frequent inspections of certain Bell Model 212 main rotor blades and provides for installtion of the BIS in accordance with prescribed procedures. After preparation and publication of the amendment, Bell issued Service Bulletin No. 212-77-10 dated April 28, 1977, to improve detection of cracks in the blade retention area by relocating the BIS conductive paint in the blade retention area as prescribed in Revision 2 of Bell Service Instruction No. 212-61.

A few cases of blade cracks have occurred in the blade retention area. Therefore, the agency proposes to add an additional paragraph to AD 77-10-5 requiring compliance with Revision 2 of Bell Service Instruction No. 212-61 for those blades identified in Bell Service Bulletin No. 212-77-10 that have the BIS installed. Compliance will be required within 300 hours' time in service after the effective date of the AD revision. The agency notes that the BIS may be installed for an alternate inspection means of AD 77-10-5.

Interested persons are invited to participate in the development of the final rule by submitting written and oral comments as they desire. All comments will be recorded and considered by the Director before taking final action, and the proposal may be changed as a result of the comments received. All comments will be available for examination before and after the closing date for comments in the Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

DRAFTING INFORMATION

The principal authors of this document are James H. Major, Aerospace Engineer, Flight Standards Division, and James O. Price, General Attorney, Southwest Region, FAA.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 39-2893, (42 FR 10853) AD 77-10-05, by adding a new paragraph as follows:

(g) Within 300 hours' blade time in service, after August 15, 1977, modify BIS installations on all main rotor blades, P/N 204-012-001 -23 and -29 and blades P/N 204-012-001-33, S/N's A2-04012, A2-04037 through A2-04042, A2-04045, A2-04046, A2-04134 through A2-04138, A2-04347, A2-04359, A2-04387, A2-04389, A2-04397, A2-04398, A2-04404 through A4-04411, A2-04455, A2-04457, AMR-04001 through AMR-04011, AMR-04013 through AMR-04015, AMR-04017 through AMR-04020, AMR-04023, AMR-04026, AMR-04030, and AMR-54001 through AMR-54011 to comply with Revision 2 of Bell Service Instruction No. 212-61, 204-32, or 205-45, revision of March 28, 1977, or later approved revision.

NOTE.—Bell Service Bulletin No. 212-77-10 contains these blades and serial numbers.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c)), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring prep-

aration of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Forth Worth, Texas, on May 25, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77-15865 Filed 6-3-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[EDR-327; Docket No. 30460;
Dated: May 31, 1977]

CURRENCY EXCHANGE CONDITIONS

Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This Advance Notice of Proposed Rulemaking is being issued to solicit participation by the public and interested government agencies in the Board's consideration of a proposal to adopt rules designed to alleviate the currency exchange problems of U.S. flag carriers in foreign countries. The proposal was suggested by the Air Transport Association, a trade association of various U.S. scheduled air carriers.

DATES: Comments must be received on or before July 21, 1977.

ADDRESSES: Comments should be sent to Docket 30460, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as received.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Babcock, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: The Air Transport Association of America (ATA) on behalf of certain air carriers,[1] filed a petition of rulemaking, dated February 10, 1977, proposing new rules, under Part 213 of the Regulations, dealing with currency exchange restrictions imposed by foreign governments. The ATA proposal would empower the Board, subject to presidential approval, to require foreign air carriers to establish escrow accounts in dollars in the United States in cases where U.S. air carriers are unable to obtain foreign currency exchange and remittances in the countries of such foreign carriers for a period of 30 days. The amount required for the escrow account would be the dollar equivalent of the unremitted funds of U.S. carriers held by the foreign country for longer than 30 days. Additional funds would be required for the account, or escrowed funds would be released, so as to maintain an equivalent balance with the delayed foreign remittances of the U.S. air carriers. ATA also recommends that provisions be adopted for the escrow sums to be transferred to the affected U.S. carrier. The remittance claims of that carrier would then be transferred to the foreign carrier whose funds are in escrow, thereby accomplishing an informal currency exchange. Finally ATA suggests that the Board consider requiring certain foreign air carriers to sell tickets in the United States only through general sales agencies so as to offset any similar restrictions on U.S. carriers' ability to engage in direct sales to the public in the country of a particular foreign carrier.

As an appendix to its petition, ATA enclosed a copy of a letter which it had sent to the Department of the Treasury, dated September 13, 1976, explaining the problem, and requesting the Department's assistance, as well as its views on the ATA proposal to the Board. Also enclosed, was the response from the Treasury Department, dated November 19, 1976, which stated that this particular problem is being discussed in the various international financial and economic organizations in which the U.S. participates, as well as in bilateral meetings with other governments. The Treasury Department stated that it believes that the objective of ATA can be better achieved through negotiation to obtain overall reduction in restrictions, rather than by retaliatory restrictions imposed by the United States.

ATA argues that there are several types of currency exchange problems encountered by the U.S. carriers which have been occurring over the past several years, and which have not been solved. Some foreign countries impose a flat prohibition on all sales in local currency, or a limitation on sales in local currency to the amount of local expenses. Other countries require that the passenger obtain formal government approval for the purchase of transportation in local currency from U.S. carriers. According to ATA, many countries have also created long delays in the processing and approval of remittance applications of U.S. carriers. This delay often results in the U.S. carriers incurring a considerable loss from the often rapid devaluation of the currency in these countries, as well as from the diversion of large amounts of capital needed by the carriers for operating expenses. This impoundment of capital often forces the carriers to obtain high interest loans to cover these expenses. Foreign air carriers operating in the United States encounter none of these problems. Their currency transfers are free from any governmental interference by the U.S. government. This disparity, contends ATA, is discriminatory and places the U.S. carriers in an unfair competitive position with the foreign carriers.

ATA urges that its proposed action is appropriate particularly in light of the International Air Transportation Fair Competitive Practices Act of 1974 (FCPA) (49 U.S.C. 1159b; 88 Stat. 2102), which directs the Board, as well as other federal agencies, to take appropriate action within its jurisdiction to eliminate all forms of discrimination or unfair competitive practices to which U.S. air carriers are subject in providing foreign air transportation. Accordingly, argues ATA, the Board should condition the permits of foreign air carriers, pursuant to section 402(e) of the Federal Aviation Act, so as to bring about an equitable competitive balance between the U.S. and foreign carriers.

A statement supporting the petition was filed by Senator James B. Pearson. No other responsive pleadings were received.

The U.S. Government has heretofore, on several occasions, found it necessary to take action in accordance with the FCPA in regard to currency exchange problems experienced by the U.S. carriers in several countries.[2] Thus it is clear that serious problems have existed with respect to currency exchange of U.S. carriers.

Upon consideration of the ATA petition, and of the seriousness of the problem as well as its complexity, the Board has decided to issue this Advance Notice in order to elicit public comments, and to obtain necessary information for our guidance before determining whether any particular rules should be proposed. The petition of ATA does not provide examples of which countries are involved, the amounts of currency involved, or any specific facts concerning recent discriminatory practices. These facts are necessary for our consideration of this proposal. The Board agrees that appropriate measures should be taken to prevent discrimination against the U.S. carriers by foreign countries, but questions whether the ATA proposal of remedial measures is the best method to eliminate this problem. The Board is particularly interested in comments and views concerning the following seven points.

1. Would the proposed remedial measures, in contrast to diplomatic negotiations by the United States Government, be the best means to preclude such discriminatory practices in the foreign currency exchange area? Although negotiations have been partially successful in the past, it appears that this problem may be a continuing one, and may require measures in addition to negotiations.

2. If action is considered appropriate, should it be by procedures other than, or in addition to, rulemaking?

3. What has been the recent specific experience of the U.S. carriers as to the

[1] The air carriers joining in the ATA petition are as follows: Alaska Airlines, Aloha Airlines, Braniff Airways, Delta Air Lines, Eastern Air Lines, The Flying Tiger Line, National Airlines, Northwest Airlines, Pan American World Airways, Trans World Airlines, Western Air Lines, and Wien Air Alaska.

[2] See, Civil Aeronautics Board FY 1976 Report to Congress, pp. 102-107.

amount of funds involved, the length of delays, and the nature of the competitive limitations imposed by particular foreign countries?

4. Would the proposed escrow accounts result in significant problems, involving foreign government currency exchange controls, which would offset the benefits to be achieved?

5. What would be the status of U.S. sales proceeds by or on behalf of those foreign-flag air carriers which do not operate into the United States, and hence do not hold foreign air carrier permits?

6. Should any remedial action include provisions designed to remedy currency exchange problems arising in connection with foreign-originating charter flights performed by U.S. scheduled and supplemental carriers?

7. Finally, those persons who believe that such remedial action should be taken should specify the standards under which the Board should issue such orders, the circumstances under which the escrow funds would be returned, transferred, or remitted to U.S. carriers, the manner in which the administrative costs of the escrow funds would be provided, and the method for accepting and deciding U.S. air carriers' claims against the fund.

While we are especially interested in receiving public comments directed to these seven issues, all other expressions of views on this subject and suggestions concerning courses of regulatory action which might be beneficial will receive our careful consideration.

Although ATA has proposed its rule as a new section to Part 213, we have concluded that, if promulgated, such rules would more appropriately be placed in a different part of our regulations. Part 213 is aimed at prompt retaliatory measures to deter specific actions or inaction of foreign governments. The proposals here are more in the nature of remedial actions with respect to problems that transcend international aviation alone. The summary Part 213 procedures may, therefore, be inappropriate in this area.

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments of the subjects discussed. All relevant materials received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rule.

Individual members of the general public who wish to express their interest by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757 (49 U.S.C. 1324, 1372).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15922 Filed 6-3-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 136]

STRENGTHENING RESEARCH LIBRARY RESOURCES

Awards of Grants to Eligible Major Research Libraries

AGENCY: Office of Education, HEW.

ACTION: Proposed rule.

SUMMARY: This document implements the Education Amendments of 1976 and governs the award of grants to eligible major research libraries to promote research and education of higher quality throughout the United States, by helping to maintain and strengthen their collections and assisting in making their holdings available to other libraries whose users have a need for research materials.

DATES: Comments must be received on or before July 21, 1977.

ADDRESSES: Send comments to: Room 3622, ROB-3, 7th and D Streets, SW., Washington, D.C. 20202. Comments will be available for review between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week at the same address.

FOR FURTHER INFORMATION CONTACT:

Frank A. Stevens, Division of Library Programs, 202-245-9530.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

Under the authority contained in sections 231-236 of Part C of Title II of the Higher Education Act of 1965, as amended by section 107 of the Education Amendments of 1976 (20 U.S.C. 1041-46), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to issue regulations governing the program of assistance to strengthen research library resources.

The statute directs that the Commissioner establish criteria designed to achieve regional balance in the allocation of funds under the program. It also provides that not more than 150 institutions may receive a grant under the program. Under section 235(a) of the Higher Education Act, no grant may be made for books, periodicals, documents or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

"Major research library" is defined by the statute as a public or private nonprofit institution, including the library resources of an institution of higher education, an independent research library, or a State or other public library having library collections which are available to qualified users and which:

(1) Make a significant contribution to higher education and research;

(2) Are broadly based and are recognized as having national or international significance for scholarly research;

(3) Are of a unique nature, and contain material not widely available; and

(4) Are in substantial demand by researchers and scholars not connected with that institution.

B. ADVANCE PUBLIC COMMENT.

A Notice of Intent to publish regulations was published in the FEDERAL REGISTER on November 22, 1976 (41 FR 51550) in which members of the public were invited to comment on specific issues identified in the Notice and also raise any other issues they felt needed to be addressed in regulations for the Strengthening Research Library Resources Program, as well as for other programs enacted or amended by the Education Amendments of 1976.

In response to the Notice of Intent, 45 letters were received by the Commissioner commenting on the Strengthening Research Library Resources Program. These letters were from library associations, institutions of higher education, State agencies, and public libraries located in 26 States and the District of Columbia.

A summary of public comments received, and corresponding responses by the Office of Education, is set forth below.

1. ELIGIBILITY FOR ASSISTANCE

(a) *Comment.* While many commenters felt that there was no need to amplify the statutory definition of a "major research library" in the regulation, many other commenters suggested specific standards they thought should be in the definition, such as number of volumes, size of staff, annual acquisitions, accessibility through interlibrary loans, and uniqueness within geographic or subject area.

Response. The Office of Education is not issuing specific regulatory standards on what a "major research library" is, to be eligible for assistance under the program. The regulation repeats the statutory elements of what a "major research library" is and indicates that an applicant may meet each of these elements by satisfying one or more of the factors associated with each element described in the evaluation criteria. Particularly given the subjective tests in the statute on what a "major research library" is, the Commissioner believes that the development of stringent eligibility standards would needlessly bog the program down in interpretive issues to exclude libraries which are arguably major research libraries from the opportunity to compete for a grant. The proposed regulation thus includes a liberal eligibility test and is designed to shift emphasis from rigid eligibility standards to the competitive review of applications under the evaluation criteria, which will in any event ensure that the highest rated "major research libraries" and projects will be funded. Therefore, the regulation does not include stringent tests of what a "major research library" is, nor does it

establish any minimum threshold tests of what "library collections" are.

(b) *Comment.* Several commenters suggested that membership in, or certification by, a national library association be a factor in determining eligibility for assistance, while other commenters felt that recognition by such an organization should not be a consideration.

Response. The proposed regulation does not condition eligibility for assistance on recognition by a national library association since there is no statutory basis for doing so.

(c) *Comment.* Several commenters felt that a smaller library with a major research collection should be eligible for assistance.

Response. There is nothing in the proposed regulation that precludes such a library from applying, provided that the elements of the statutory definition are met.

(d) *Comment.* One commenter felt that medical libraries should not be eligible to participate in the program since the needs of health science libraries are already being addressed under the Medical Library Assistance Act of 1965 (Pub. L. 89–291).

Response. The Commissioner would not be authorized to exclude medical libraries from eligibility for assistance, nor would it appear that projects to strengthen medical libraries could be excluded from consideration. However, because these projects may be eligible for assistance under the Medical Library Assistance Act of 1965 (Pub. L. 89–291), the proposed regulation includes provisions to ensure that any payments under the program will not duplicate payments under the Medical Library Assistance Act (§ 136.05(c)) and to require the applicant to document the special needs for assistance for this type of project under this part.

(e) *Comment.* Several commenters felt that institutions should be able to combine as consortia and apply for assistance.

Response. Under the Office of Education General Provisions Regulations, 45 CFR 100a.19(a), eligible applicants may apply jointly with other eligible applicants for grant assistance. However, an award may not be made to ineligible applicants because they apply jointly.

A number of libraries which individually are either eligible or ineligible may combine as a consortium which is itself incorporated or otherwise established as a public or private nonprofit institution. If the consortium institution submits an application under this part, the consortium institution itself must establish its eligibility as a major research library. Thus, the eligibility requirements relating to library collections of major research libraries, as set forth in § 136.04 (a)(2), must be met by library collections of the consortium institution, and not by the separate library collections of the members which make up the consortium. This is clarified in § 136.04(a)(3) of the proposed regulation.

2. USE OF GRANT FUNDS

Comment. The majority of commenters felt that grant funds should be used for library resources and materials, including the costs of materials, processing, catalogs or guides, data bases for computer input, networks, and interlibrary loan costs. A number of commenters also felt that grant funds should be used only to build and maintain existing collections.

Response. The authorized activities section of the proposed regulation (§ 136.08) specifies allowable activities in line with most of the comments.

3. LEVEL OF GRANT FUNDS

Comment. The majority of commenters were in favor of grants ranging from $25,000 or $50,000 up to $250,000 or $500,000. Two commenters felt that the level of grant funds should be computed as a percentage of the institution's library budget. Several commenters felt that there should be no restrictions set in the regulation, since the level of grant funds would depend upon such factors as the amount of appropriations and decisions of application review panels.

Response. No restrictions have been set in the proposed regulation. Guidance on anticipated ranges of grant awards will be provided on an annual basis in notices inviting applications in the light of the amount of funds appropriated or expected to be appropriated for the program.

4. DURATION OF FEDERAL SUPPORT

Comment. Most commenters were in favor of multi-year support. Several commenters suggested from 2 to 3 years up to 5 years.

Response. The proposed regulation contains a section on duration of projects, which provides for an approved project period not to exceed three years (§ 136.10). However, the Commissioner does not intend to commit most program funds to multi-year projects. This is reflected in § 136.10(c).

5. REGIONAL BALANCE

Comment. Several commenters felt that every State should recieve a grant. Other commenters felt that regional balance should be achieved on the basis of geographic and demographic criteria, such as a high point count based on population density of either the institution's environs or its users. Several other commenters suggested dividing the United States into specific regions and awarding at least one grant to each region.

Response. The proposed regulation provides for regional areas and the award of extra points to top rated applications in regions which otherwise would not have had many funded applications (§ 136.07).

C. CITATIONS

As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of statutory or other legal authority for each section of the regulation has been placed in parentheses on the line following the text of the section. References to "Sec." in the citations of authority following provisions of the proposed regulation refer to sections of the Higher Education Act of 1965. If the citation uses the word "Interprets," the regulation provisions include an interpretation of the cited statutory provision. If the citation uses the word "Implements," the regulation provisions include provisions deemed necessary to implement the statute.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Number 13.576, Strengthening Research Library Resources.)

Dated: April 7, 1977.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

Approved: May 26, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

PART 136—STRENGTHENING RESEARCH LIBRARY RESOURCES

Sec.

AUTHORITY: Part C of Title II of the Higher Education Act of 1965, as amended by section 107 of the Education Amendments of 1976, 90 Stat. 2090–2091 (20 U.S.C. 1041–1046).

§ 136.01 Scope.

(a) This part applies to the award of grants with funds appropriated to carry out Part C of Title II of the Higher Education Act of 1965, as amended by section 107 of the Education Amendments of 1976.

(b) The award of grants under this part is subject to applicable provisions contained in Subchapter A of this Chapter (45 CFR Parts 100, 100a, relating to fiscal, administrative, property management, and other matters), except that evaluation criteria in § 100a.26(b) of this Chapter shall not apply to applications under this part.

(Implements Secs. 231–236, 20 U.S.C. 1041–1046, 1221e–3(a)(1), 1232c(b)(3).)

§ 136.02 Purpose.

The purpose of the program under this part is to promote research and education of higher quality throughout the United States by providing financial assistance to:

(a) Help major research libraries maintain and strengthen their collections; and

(b) Assist major research libraries in making their holdings available to indi-

vidual researchers and scholars outside their primary clientele and to other libraries whose users have need for research materials.

(Interprets Sec. 231, 20 U.S.C. 1041; Sen. Rept. No. 94-882 at 8-10 (1976).)

§ 136.03 Definitions.

The following definitions apply to terms used in this part, "Act" means Part C of Title II of the Higher Education Act of 1965, as amended by section 107 of the Education Amendments of 1976 (Pub. L. 94-482).

(Secs. 231-236, 20 U.S.C. 1041-1046.)

"Branch campus" means a campus of an institution of higher education located in a community of the United States different from that of the parent institution, not within a reasonable commuting distance from the main campus, and which has college level programs for which library facilities, services, and materials are necessary.

(Implements Sec. 233(b), 20 U.S.C. 1043(b).)

"Institution of higher education" means an educational institution in any State which meets all the following requirements: (a) It admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.

(b) It is legally authorized within such State to provide a program of education beyond secondary education.

(c) It provides at least one of the following types of programs:

(1) An educational program for which it awards a bachelor's degree;

(2) A program of not less than 2 years which is acceptable for full credit toward a bachelor's degree;

(3) A program of not less than 1 year of training to prepare students for gainful employment in a recognized occupation.

(d) It is a public or other nonprofit institution.

(e) It is either accredited by an organization named in a published list of the Commissioner as a nationally recognized accrediting agency or association or meets at least one of the following requirements:

(1) The Commissioner has determined that there is satifactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the library resources for which assistance under this part is sought or which are planned to be acquired within a reasonable time, that the institution will meet the accreditation standards of such an agency or organization within a reasonable period of time;

(2) It is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(Secs. 206, 1201(a), 20 U.S.C. 1026, 1141(a).)

"Past fiscal year" means the fiscal year period of October 1 to September 30 prior to the fiscal year in which the application is submitted, except that for applications submitted in Fiscal Year 1977 (which ends September 30, 1977), if any, the "past fiscal year" means the period of July 1, 1975 to June 30, 1976.

(Implements Sec. 233, 20 U.S.C. 1043.)

"Primary clientele," with reference to research library, means students, faculty, or other registered users of the applicant or grantee.

(Implements Sec. 233, 20 U.S.C. 1043.)

"State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands.

(Sec. 1201(b), 20 U.S.C. 1141(b).)

"State library administrative agency" means the official agency of a State charged by the law of that State with the extension and development of public library services througout the State.

(Interprets Sec. 236, 20 U.S.C. 1046.)

§ 136.04 Eligibility for assistance.

(a) *Major research libraries.* The Commissioner awards grants under this part only to major research libraries. A major research library:

(1) Is a public or private nonprofit institution, including the library resources of an institution of higher education, an independent research library, or a State or other public library; and

(2) Has library collections which are available to qualified users and which:

(i) Make a significant contribution to higher education and research, as determined by the strength of the library collections in meeting one or more of the factors described in the subdivisions under § 136.06(a)(1);

(ii) Are broadly based, as determined by the strength of the library collections in meeting one or more of the factors described in the subdivisions under § 136.06(a)(2);

(iii) Are recognized as having national or international significance for scholarly research, as determined by the strength of the library collections in meeting one or more of the factors described in the subdivisions under § 136.06(a)(3);

(iv) Are of a unique nature, and contain material not widely available, as determined by the strength of the library collections in meeting one or more of the factors described in the subdivisions under § 136.06(a)(4); and

(v) Are insubstantial demand by researchers and scholars not connected with the applicant institution, as determined by the strength of the library collections in meeting one or more of the factors described in the subdivisions under § 136.06(a)(5).

(3) The requirements in subparagraph (2) must be met by library collections of the major research library applying for a grant. In the case of a consortium which applies as a public or private nonprofit institution, these requirements must be met by library collections of the consortium institution and not by the separate collections of the members which make up the consortium.

(Interprets Sec. 233, 20 U.S.C. 1043.)

(b) *Ineligibility of section 202 grantees.* (1) An institution receiving a grant under section 202 of the Higher Education Act of 1965 (Basic Grants of the College Library Resources Program under Subpart B of Part 131 of this Chapter) is ineligible to receive a grant under this part in the same fiscal year.

(2) For purposes of this paragraph, each branch campus of an institution of higher education is deemed to be a separate institution.

(3) An institution of higher education must respond to the eligibility and application requirements and evaluation criteria in this part, as applicable, without regard to any of its library collections located at a campus which receives a grant under section 202 of the Higher Education Act of 1955 in the same fiscal year.

(Interprets and implements Sec. 233(b), 20 U.S.C. 1043(b).)

(c) *Limitation on number of grants.* Not more than 150 institutions may receive a grant under this part in a fiscal year.

(Interprets Sec. 235(b), 20 U.S.C. 1045(b).)

§ 136.06 Applications.

Each applicant for a grant under this part shall submit an application to the Commissioner.

(a) The application must include the following:

(1) Information sufficient to enable the Commissioner to determine the eligibility of the applicant under § 136.04;

(2) A description of the specific activities which the applicant proposes to carry out with financial assistance under this part;

(3) A description of the methods and manner of administration of the proposed project, including any plan of acquisition; and

(4) A budget and justification detailing the costs of services and property in the proposed project.

(b) The application should also provide information responding to each of the funding criteria in § 136.06 to enable the Commissioner to evaluate the quality of the proposed project. Failure of an application to provide information responding to a particular criterion will deny the applicant of an opportunity to earn points associated with that criterion.

(Implements Secs. 231-236, 20 U.S.C. 1041-1046, 1232c(b)(3).)

(c) If the applicant proposes a project eligible for assistance under another Federal program authorizing support for research libraries, such as the Medical Library Assistance Act of 1965 (Pub L. 89-291), the application must:

(1) State whether the project has been the subject of an application to another

Federal program and, if so, its disposition or status;

(2) Document that funding the project will not result in a duplication of Federal payments for activities or acquisitions; and

(3) Provide information to satisfy the Commissioner that there is a special need for assistance under this part.

(Implements Secs. 231–236, 20 U.S.C. 1041–1046.)

§ 136.06 Criteria for assistance.

In evaluating applications to select grantees and determine the size of awards under this part, the Commissioner shall apply the following criteria, weighted according to the indicated points:

(a) *Significance as a major research library.* The strength of the applicant in meeting each of the following elements of a major research library:

(1) The extent to which the applicant's library collection make a significant contribution to higher education and research (20 points). Consideration will be given to such factors as:

(i) Major research projects for which the library has made resources available in the past fiscal year (only a general and brief summary of information is expected in the application);

(ii) For institutions of higher education, the amount the institution received in Federal and/or private research funds, and the number of projects conducted by the institution with these funds in the past fiscal year;

(iii) Other evidence of substantial service to researchers and scholars; and

(iv) For institutions of higher education, the number of doctoral programs offered and the number of doctoral degrees awarded in the past fiscal year.

(2) The extent to which the applicant's library collections are broadly based (15 points). Consideration will be given to such factors as:

(i) The breadth of the library collections with respect to the number of subject areas covered or the comprehensiveness of special collections in particular subject areas;

(ii) The size of the collection with respect to volumes and titles, manuscripts, microforms, and other types of materials; and

(iii) The number of current periodical subscriptions.

(3) The extent to which the applicant's library collections are recognized as having national or international significance for scholarly research (10 points). Consideration will be given to such factors as:

(i) The number of interlibrary loans made by the applicant during the past fiscal year to libraries located outside the State in which the applicant is located;

(ii) The number of such loans to libraries located outside the regional geographic area in which the applicant is located;

(iii) The number of such loans to libraries located outside the United States;

(iv) The extent to which loans of the applicant's materials described in subdivisions (i)–(iii) are made pursuant to cooperative arrangements by the applicant with libraries in other States, regions, and countries; and

(v) Other evidence of national or international significance for scholarly research.

(4) The extent to which the applicant's library collections are of a unique nature, and contain material not widely available (10 points). Consideration will be given to such factors as:

(i) The number and nature of special collections containing research materials not widely available; and

(ii) The availability of printed (or otherwise published) catalogs or other guides to the special collections.

(5) The extent to which the library collections are in substantial demand by researchers and scholars not connected with the applicant institution (5 points). Consideration will be given to such factors as:

(i) The number and type of institutions with which the applicant has formal, cooperative agreements for library and information services;

(ii) The extent to which the library lends more on interlibrary loans than it borrows; and

(iii) The extent of loan requests from users outside the library's primary clientele.

(Implements Secs. 231, 233, 20 U.S.C. 1041, 1043.)

(b) *Nature of project.* (1) The extent to which the specific objectives and activities of the project are designed to contribute to the purposes of this part (15 points) by:

(i) Helping the applicant to maintain and strengthen its library collections, with particular regard to whether the project builds upon one or more existing special collections of the applicant which have national or international significance for scholarly research; and/or

(ii) Making the applicant's research holdings available to other libraries for wider use by researchers and scholars. In applying this factor, the Commissioner considers:

(A) The extent to which the project is designed to increase the availability of existing collections of the applicant which have national or international significance for scholarly research; and

(B) The extent to which the project will strengthen the applicant's capacity for participating in library networks and other cooperative library arrangements for sharing of library resources.

(2) The applicant's institutional commitment and capability to continue and build upon the Federal project upon its expiration (5 points).

(3) The soundness of the proposed plan of operation, including consideration of the extent to which the objectives of the proposed project are sharply defined (including specific time schedules for their achievement) clearly stated, capable of being measured, and capable of being attained (5 points).

(4) The reasonableness of costs in relation to anticipated results (5 points).

(5) The qualifications and appropriateness of staff selected for, or assigned to, the project (5 points).

(6) The extent to which the specific proposed activities and expenditures under the project are designed to expand upon and supplement the applicant's activities and expenditures (5 points).

(Implements Sec. 231, 20 U.S.C. 1041; Sen. Rept. No. 94–882 at 8–10 (1976).)

(c) *Projects eligible under other Federal programs.* Notwithstanding the criteria in paragraphs (a) and (b) of this section, the Commissioner will not fund a project eligible for assistance under other Federal programs authorizing grants to support research libraries, such as the Medical Library Assistance Act of 1965 (Pub. L. 89–291), unless the application:

(1) Documents that payments under this part will not duplicate payments under other Federal programs; and

(2) Demonstrates a special need for funding under this part.

(Implements Sec. 231, 20 U.S.C. 1041.)

§ 136.07 Regional balance.

The Commissioner seeks to achieve a reasonable regional balance in the allocation of funds under this part by assigning a maximum of 15 additional points to applications which, if funded, would contribute to a regional balance. These points are assigned according to the following steps:

(a) Applications will first be evaluated on the basis of evaluation criteria in § 136.06 and a tentative slate will be prepared of the highest rated applications which would have been funded if regional balance were not considered. (These applications are referred to hereafter as the "highest rated applications".)

(b) The Commissioner will plot these highest rated applications to see their locations in terms of the following designated regions:

Region:	
1	The New England States (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont).
2	New York State.
3	The Middle Atlantic States (Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, and West Virginia).
4	The Southeastern States (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands, and Virginia).
5	The Southwestern States (Arizona, Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).
6	California.

Region:
7 ------ The Pacific Northwest (Alaska, Idaho, Oregon, and Washington).
8 ------ The Mountain Plains States (Colorado, Kansas, Montana, Nebraska, Nevada, North Dakota, South Dakota, Utah, and Wyoming).
9 ------ The Midwest. (Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin).
10 ----- The Pacific Basin (American Samoa, Guam, and Hawaii).

(c) The Commissioner will then assign 15 extra points to each of the three applications with the most points in each region which has two or fewer of the highest rated applications. For example, if the highest rated applications were all those with scores of 75 points and above, and a region had applications with scores of 82, 70, 62, and 55, 15 extra points would be awarded to each of the applications with 82, 70, and 62 points. The application with 55 points would not receive extra points.

(d) The Commissioner may award 15 additional points, in accordance with the standards in paragraph (c), to applications to avoid causing regions which did not receive points under paragraph (c) to be left with two or fewer fundable applications.

(Implements Sec. 234, 20 U.S.C. 1044.)

§ 136.08 **Authorized activities.**

(a) *General.* Funds provided under this part may be used for activities or expenditures which achieve one or both of the purposes described in § 136.02, exclusive of construction costs. These authorized activities or expenditures may include, but are not limited to:

(1) Acquiring books and other materials to be used for library purposes;

(2) Binding, rebinding, and repairing books and other materials to be used for library purposes;

(3) Cataloging, abstracting, and making available lists and guides of library collections;

(4) Distributing library materials and bibliographic information to users beyond the primary clientele through the mail or through electronic, photographic, magnetic, optical, or other reprographic techniques;

(5) Acquiring additional equipment and supplies that will assist in making library materials available to users beyond the primary clientele;

(6) Hiring necessary additional staff to carry out activities funded under this part; and

(7) Communications with other institutions incidental to other activities under this part.

(Implements Sec. 231–236, 20 U.S.C. 1041–1046; Sen. Rept. No. 94–882, at 9 (1976).)

(b) *Cost principles.* The Commissioner will pay for allowable costs under grants in accordance with the applicable cost principles set forth in appendices to Subchapter A of this Chapter (45 CFR Part 100, Appendices B–D).

(Sec. 231, 20 U.S.C. 1041, 1221c; OMB Circular Nos. A–21, A–87.)

(c) *Limitation on religious use.* A grantee shall not use funds under this part for books, periodicals, documents, or other related material to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

(Sec. 235, 20 U.S.C. 1045.)

§ 136.09 **Consultation with State agency.**

Each recipient of a grant under this part shall periodically inform the State library administrative agency or the State agency, if any, concerned with the educational activities of all institutions of higher education in the State in which the grant recipient is located, of its activities under this part.

(Sec. 236, 20 U.S.C. 1046.)

§ 136.10 **Duration of projects.**

(a) The Commissioner awards projects under this part for a specified project period. The duration of the project shall be only for the minimum period determined by the Commissioner to be needed to carry out the approved objectives of the project, but shall in no event exceed three years.

(b) New applications proposing multi-year projects must be accompanied by an explanation of the need for multi-year support, an overview of the objectives proposed, and estimates of the amounts necessary to attain these objectives in any proposed subsequent year.

(c) The Commissioner expects to fund many one-year awards. However, if the applicant demonstrates to the Commissioner's satisfaction that multi-year support is needed to carry out the proposed project, the Commissioner may, in the initial notification of the grant award (which shall be for up to a twelve month period), indicate an intention to assist the project for an additional period through continuation grants.

(d) (1) Applications for assistance to continue a project during the project period but subsequent to the initial year of assistance shall be reviewed on a non-competitive basis to determine:

(i) If grantee has complied with the grant terms and conditions, the Act, and applicable regulations; and

(ii) The project's effectiveness to date, or the constructive changes proposed as a result of an ongoing evaluation of the project.

(2) If funds are insufficient to support all projects determined on the basis of subparagraph (1) to merit continuation, applications for continued support will be evaluated competitively with each other on the basis of the criteria set forth in § 136.06.

(e) Following the expiration of the project period for a particular project, an application for further assistance to support the project will be evaluated on the basis of the criteria set forth in § 136.06 in competition with all other applications governed by the criteria.

(Implements Sec. 231, 20 U.S.C. 1041, 1221e–3(a)(1).)

[FR Doc.77–15873 Filed 6–3–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Review of Status of Twelve Species of Turtles

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Review of the status of 12 species of turtles.

SUMMARY: Notice is hereby given that the Department of the Interior has evidence on hand to warrant a review of the species of turtles listed below to determine whether they should be proposed for listing as Endangered or Threatened species.

DATES: Information regarding the status of these species should be submitted on or before August 5, 1977, to the Director, U.S. Fish and Wildlife Service. This time limit expires on August 2, 1977.

ADDRESSES: Comments on this Notice of Review should be submitted to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202–343–4646.

SUPPLEMENTARY INFORMATION: The species of turtles for which this notice of review is issued are as follows:

Scientific name	Common name	Where found
Chrysemys alabamensis	Alabama red-bellied turtle.	Alabama.
Chrysemys concinna suwanniensis	Suwanee cooter	Florida, Georgia.
Chrysemys rubriventris	Red-bellied turtle	Delaware, Maryland, Massachusetts, New Jersey, North Carolina, Virginia.
Graptemys caglei	Cagle's map turtle	Texas.
Graptemys flavimaculata	Yellow-blotched turtle	Mississippi.
Graptemys oculifera	Ringed sawback	Louisiana, Mississippi.
Graptemys pseudogeographica sabinensis	Sabine map turtle	Louisiana, Texas.
Graptemys versa	Texas map turtle	Texas.
Kinosternon bauri bauri	Key mud turtle	Florida.
Kinosternon flavescens spooneri	Illinois mud turtle	Illinois, Iowa, Missouri.
Sternotherus depressus	Flattened musk turtle	Alabama.
Graptemys nigrinoda	Black-knobbed sawback	Alabama, Mississippi.

The Department is seeking the views of the Governors of Alabama, Delaware, Florida, Georgia, Illinois, Iowa, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, North Carolina, Texas, and Virginia where the species of turtles occur. Other interested parties are hereby invited to submit any factual information, including publications and written reports, which is germane to this status review.

This Notice of Review was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species.

Dated: May 13, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 77-15594 Filed 6-3-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 216]

TAKING AND IMPORTING OF MARINE MAMMALS

Porpoises

AGENCY: National Marine Fisheries Service.

ACTION: Proposed Amendments.

SUMMARY: Amendments are being proposed to § 216.24(d)(2)(i) in order to assure timely and accurate reporting of information on porpoise mortality levels.

EFFECTIVE DATE: Comments on or before June 21, 1977.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen (202-634-7461).

SUPPLEMENTARY INFORMATION: On March 1, 1977, the National Marine Fisheries Service published final regulations (42 FR 12010) authorizing the issuance of a permit to allow the taking of marine mammals incidental to yellowfin tuna purse seine fishing in the eastern tropical Pacific Ocean. On May 4, 1977, the National Marine Fisheries Service adopted published methodology (42 FR 22573) for monitoring porpoise quotas. With the adoption of the methodology, it was determined necessary to modify the regulations to assure that timely and accurate information on the numbers of purse seine vessels at sea and the mortality levels of the individual porpoise stocks is reported to the National Marine Fisheries Service.

The proposed amendments to the regulations would require reports from operators of all U.S. tuna seiners having a certificate holder onboard of their actual departure or arrival date to the Regional Director, Southwest Region, 300 South Ferry Street, Terminal Island, California, Area Code 714-233-5511 within 48 hours prior to departure from port and within 48 hours after arrival in port. Vessels having observers onboard, or vessels departing for or returning from regulated trips outside the Inter-American Tropical Tuna Commission (IATTC) area, are excluded from this requirement.

In addition, because of the small quota sizes on some stocks, it will be required that the National Marine Fisheries Service observers be allowed to periodically report certain information in coded form by radio.

Public comment on these proposed amendments may be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235. Comments received on or before June 21, 1977, will be considered before the amendment is adopted.

The standard thirty (30) day review period is being waived for this proposal because the fleet is presently at sea and a further delay in implementation may endanger the Service's data base on vessel activities and porpoise mortality. Accordingly, it is proposed to amend 50 CFR 216.24(d)(2)(i) by redesignating § 216.24(d)(2)(i)(B) as § 216.24(d)(2)(i)(C), and by adding a new 216.24(d)(2)(i)(B) which reads as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(d) * * *

(2) * * *

(i) * * *

(B) Each vessel having a certificate holder but not an observer onboard and not fishing on a IATTC regulated outside trip is required to notify the Regional Director, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, Area Code 714-233-5511, within 48 hours prior to departure from port and within 48 hours after arrival in port, of their actual departure or arrival date, including any changes in schedules that may occur after the original notification. The notification shall include the name of the vessel and the location of the port of the scheduled departure or arrival. Reporting may be by either the certificate holder, owner, or managing owner of the vessel. Masters of all vessels carrying the National Marine Fisheries Service observers shall allow observers to periodically report the following information by radio in coded form:

(*1*) Number of animals killed since the trip began;

(2) Total tuna caught, all species, since the trip began;

(*3*) Total yellowfin tuna caught on porpoise since the trip began; and

(*4*) Total sets made, and total sets made on porpoise since the trip began.

Individual vessel names and their tuna catches associated with coded information reported by radio by the National Marine Fisheries Service observers shall remain confidental unless its release is authorized in writing by the master of the vessel, or his designated agent. The Regional Director, Southwest Region, will provide to the public a weekly quota status report summarizing the incidental porpoise mortality accumulated for all vessels by individual species and stocks.

* * * * *

Dated: June 1, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-15892 Filed 6-3-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR, EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-113]

TEXAS GAS TRANSMISSION CORP.

Emergency Order

On May 27, 1977, Texas Gas Transmission Corporation (Texas Gas) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application to make certain emergency purchases of natural gas, as an agent for certain of its customers [1] from W. A. Moncrief and W. A. Moncrief, Jr. (Moncrief). Texas Gas also requests permission to transport and deliver this gas to certain of its customers.

By contract executed May 6, 1977, Texas Gas, as agent, agreed to purchase 600 Mcfd of natural gas from Moncrief at the Bayou Middle Fork Field, Claiborne Parish, Louisiana. The contract between Texas Gas and Moncrief is to terminate on July 31, 1977.

Texas Gas, as agent, will purchase these supplies at a price of $2.25 per MMBtu inclusive of all state and local taxes and other adjustments. I find this price to be fair and equitable in accordance with Order No. 2.

Texas Gas, as agent, will receive delivery of the subject gas from Moncrief at the discharge side of the Cailborne Gasoline Plant in Claiborne Parish, Louisiana and transport and deliver such gas to certain of its customers along the Texas Gas pipeline system. Texas Gas' proposed transportation rates are based upon the cost data supporting the settlement rate in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP77-38, and the retention of a percent of the transported volumes for compressor fuel and company use and loss. I find no basis for prescribing other charges since the parties have agreed upon the transportation charges.

Based upon the foregoing, Texas Gas is authorized to purchase gas, as agent, from Moncrief and to transport and deliver such gas for certain of its customers. This authorization is conditioned on (i) Texas Gas' submission of the names of the customers for which it is acting as agent, and (ii) those customers agreeing to submit reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and Moncrief. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 31, 1977.

[FR Doc.77-16068 Filed 6-3-77;8:45am]

[1] These customers are local distribution companies and interstate pipelines as defined in §§ 2(1), (5) and the Act (91 Stat. 4 (1977)).

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

NEW LEXINGTON DIVERSION AND DIKE RUSH CREEK WATERSHED, OHIO

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the New Lexington Diversion and Dike, which is a part of the Rush Creek Watershed, Fairfield, Hocking, and Perry Counties, Ohio.

The environmental assessment of this Federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Robert E. Quilliam, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement include a diversion and dike for flood protection in the town of New Lexington, Ohio.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various Federal, State, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, Room 522, Federal Building, 200 North High Street, Columbus, Ohio 43215. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until June 21, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: May 25, 1977.

JAMES W. MITCHELL,
Director, Watersheds Division.

[FR Doc.77-15880 Filed 6-3-77;8:45 am]

Office of the Secretary

NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

Meetings

JUNE MEETING

The Committee of Scientists will meet at 6:00 p.m. on June 19, 1977 through the afternoon of June 21, 1977. The June 19 and 20 meetings will be held in the Forest Service office at 1075 Park Boulevard, Boise, Idaho. On June 21 there will be a field trip for the Committee to review field level planning.

The emergency scheduling of the June meeting is due to the time frame for completion of the Committee's task as specified by the National Forest Management Act of 1976. There was not sufficient time for a full 15 days meeting notice between completion of the Committee's organizational meeting and setting of the June meeting.

JULY MEETING

The Committee of Scientists will meet July 25 through July 28, 1977 at Juneau, Alaska. On July 25 and 26 there will be field trips for the Committee to review field level planning. The Committee will meet at 9:00 a.m. on June 27 and 28 in Forest Service offices in the Federal Office Building in Juneau, Alaska.

The purpose of these meetings will be to review present planning at the field level and to review planning alternatives.

The meetings will be open to the public. Persons who wish to attend should notify Charles R. Hartgraves, Forest Service, area code 202-447-5933. Written statements may be filed with the Committee before or after the meeting.

CHARLES R. HARTGRAVES,
Executive Secretary.

JUNE 2, 1977.

[FR Doc.77-16029 Filed 6-2-77;3:18 pm]

CIVIL AERONAUTICS BOARD

[Docket 30146; Order 77-6-3]

FLYING TIGER LINE INC.

Order Denying Petition

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June, 1977.

By petition filed December 2, 1976, The Flying Tiger Line Inc. (Tiger) requests that the Board issue an order clarifying the circumstances under which a carrier may lawfully use domestic daylight time-of-tender container rates in constructing through international rates in foreign air transportation, and further requests that the Board issue a declaratory order precluding the use of such daylight rates in constructing through rates for inbound international shipments.

Tiger asserts that certain air carriers in the transpacific markets are currently using domestic daylight container rates to construct through inbound international rates to points in the U.S. Tiger submits that it is not reasonable to permit such a rate construction since the carriers cannot and will not adhere to "all terms and conditions" applicable to the daylight rates.

Domestic daylight container rates are discounted rates which require the shipper to tender a container to the carrier within specified time periods on any or certain days of the week, e.g., between the hours of 4 a.m. and 4 p.m. Monday through Friday. Further, the date and exact time of tender and receipt of the shipment must be entered on the airbill by the carrier. The daylight rates do not condition time of movement.

Tiger alleges that these special terms and conditions applicable to the domestic daylight container rates preclude their use in constructing through inbound international rates to points in the United States, since the carriers could not comply with such special terms and conditions when the traffic is tendered at a foreign origin point. Tiger therefore concludes that the use of such domestic daylight rates in constructing international through rates should be limited to situations in which the traffic originates in the United States.

Answers in opposition to Tiger's petition have been filed by Northwest Airlines, Inc. (Northwest) and Pan American World Airways, Inc. (Pan American).

Northwest asserts, inter alia, that de facto rate increases would result in eastbound transpacific container rates if Tiger's petition is granted; that its tariff rules permit, as do Tiger's, the use of domestic daylight container rates in constructing through inbound international rates; that the Board has considered the combination of domestic and international rates in Order 76-6-89, June 11, 1976, and properly concluded that shippers should be given the opportunity to enjoy lower rates via any carrier desiring to offer such through rates based on the daylight container rates; that, if granted, the petition would discriminate unjustly against the small shipper vis a vis the large and sophisticated shipper since the latter, with a large West Coast operation, could legally take delivery of the international shipment at a gateway port, and then, by tendering it under the domestic daylight rate, obtain the same charge for onward movement as is now available by the rate combination; and that Tiger's petition is just another attempt to destroy the container rate structure and the savings accruing to shppers from containerization.

Pan American contends, inter alia, that shippers would resort to the use of two airbills in order to achieve the rates they presently enjoy under the present construction; that the Tiger request would place Pan American and other carriers at a competitive disadvantage with Tiger and Northwest, since these latter carriers could establish domestic daylight rates at low levels from Seattle to points in the United States, thereby precluding Pan American's participation because it lacks authority to serve Seattle as a gateway in the transpacific markets; and that in the past Pan American has observed the terms and conditions applicable to special domestic rates used in construction of through international rates, and has deemed such domestic terms and conditions to be applicable to acceptance of the shipment at the foreign point of origin with respect to inbound traffic.

Tiger, in a motion for leave to file an otherwise unauthorized document in reply to the answers of Northwest and Pan American, which will be granted, asserts that the answers of Northwest and Pan American confirm a serious and immediate need for clarification by the Board of the rules governing the construction of through international air freight rates. Further, Tiger states that it and other carriers are under a court order to adhere to their published tariffs on inbound air transportation.[1] Tiger also alleges that it is at a competitive disadvantage with respect to other carriers operating in the transpacific market on inbound traffic to the United States, since it refuses to offer and will not permit its shippers to use domestic daylight container rates in the construction of through inbound international rates.[2] Tiger ventures that the carriers offering such constructed inbound international rates using domestic daylight rates are doing so at the risk of being viewed in violation of the Court's order. Tiger requests the Board to pass on the legality of carriers using the domestic daylight container rates to construct through inbound international rates to points in the United States.

Northwest has filed a contingent motion for leave to file an otherwise unauthorized document in response to Tiger's motion, which we will grant. Northwest therein states that the substance of Tiger's reply is no more than a reiteration of its petition for a declaratory order, and that such reiteration adds nothing to the docket and that the motion should be dismissed. In addition, Northwest asserts that its method of verifying the actual time of tender in the Orient of shipments destined to the United States does not present any problem. The carrier states that it requires the use of a time/date stamp machine at all Orient locations for recording time of tender on all daylight container rate shipments, and thereby complies with the terms and conditions of that rate.

Japan Air Lines Company, Ltd. (JAL) has filed a motion for leave to file an otherwise unauthorized document in answer to Tiger's request for the issuance of a declaratory order, which we will grant. JAL requests that the Board include an interpretation of the "time-of-tender" provisions of the tariff at issue to the effect that tender of a shipment to an IATA agent or to Air Cargo, Inc. is not tender to the carrier entitling the shipment to the lower daylight container rate.

Upon consideration of the petition and answers and all other related matters, the Board finds that the petition does not set forth facts which warrant the issuance of a declaratory order precluding the use of domestic daylight container rates in constructing through rates for inbound transpacific shipments and therefore Tiger's request therefor will be denied.

Section 221.63(a) of the Board's Economic Regulations provides, inter alia, that, in the absence of an applicable local or joint rate from point of origin to point of destination, the lowest combination of applicable rates via the route of movement may be used to construct a through rate between such points, unless such rates are otherwise precluded by appropriate tariff provisions from being used in combination on particular traffic or under specified conditions.

An examination of applicable carrier tariffs does not disclose any provision which would prohibit an international rate from being combined with a domestic daylight container rate to construct a through rate from an Orient point of origin to a point of destination in the United States.[3] On the contrary, the car-

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[1] *United States of America* v. *Air New Zealand, Ltd., et al.*, No. C-76-0320-0JC, (N.D. Cal., filed March 30, 1976).

[2] On January 16, 1976, Tiger proposed a reduction in its "FTC" domestic daylight general commodity container charge from Portland to New York or Newark to meet Northwest Airlines, Inc.'s LD-3 container general commodity charge from Los Angeles to New York or Newark. Tiger stated that the "reduction was necessary to meet the lowest West Coast-New York or Newark container charge to permit international construction." (The tariff was rejected by the Board for technical reasons and was not refiled.)

[3] We note that IATA Resolutions 534(a) (Charges for Bulk Unitization—North Atlantic), 536(a) (Charges for Bulk Unitization—North and Central Pacific), and 590 (JT) (Specific Commodity Rates Board) contain provisions which preclude certain international rates from being used in combination with other rates to construct through rates and the carriers' rules tariff, i.e., Cargo Rules Tariff No. CR-3, C.A.B. No. 48, issued by Air Tariffs Corporation, Agent, contains the appropriate provisions reflecting such noncombinability. Thus, it is clear that when carriers seek to proscribe the combinability of certain rates and fares, they specifically have done so.

riers' tariffs authorize such construction in the absence of a through published rate. Therefore, on the basis of these provisions alone, carriers are not precluded from using domestic rates in the construction of through eastbound transpacific rates to United States points.

Tiger is concerned whether the terms and conditions of the daylight rates will be applied for traffic originating at a foreign point. Further, if the terms and conditions do apply, Tiger questions how carriers originating traffic at a foreign origin point can protect the time of receipt and particluarly the time of tender provisions applicable to domestic daylight rates, and suggests that there is no assurance the originating carrier will observe such provisions. With regard to the originating carrier's compliance with the conditions on the daylight rates, we note that there are various tender requirements in the tariffs: lower level seasonal rates apply only on shipments "tendered" during certain months and higher level rates apply on shipments tendered during other months; shipments of certain commodities are subject to the requirement that they be tendered at least a certain time in advance of and/or no longer than a certain time in advance of the flight, etc. Thus, rates with such tender conditions are not unknown in international service and these conditions have not precluded the use of such rates in combination with other rates to construct through rates, nor has the Board been asked to preclude the use of such rates in combination with other rates to construct through rates. Similarly, we would not take the position that a carrier requiring that live animals be "tendered" a certain time before flight is, by that condition, precluded from participating in interline transportation of live animals originating on another carrier. While "tender" has a somewhat different nuance in each of the above instances, and has a different impact on the reasonableness and economics of the rates in each of the above instances, the term should not be arbitrarily construed to both permit or to preclude combination of time-of-tender rates with other rates depending upon some subjective judgment depending upon a reading of the tariff.

The Board concludes that the applicability of the daylight container rate conditions is not unlike the matter raised several years ago, when Tiger complained that the domestic deferred air freight rates were being used to construct through international rates without adherence to the conditions attached to such rates.[1] In that case, the Board found that IATA Resolution 014b specifically required compliance with the provisions of the domestic deferred rate. The current IATA resolution does not specifically address rate constructions using the domestic daylight container rates; however, § 221.63(b) of the Board's Economic Regulations requires carriers to observe all of the rules and other tariff provisions applicable to each intermediate rate used in constructing a through rate, and nothing in the carriers' tariffs waives such conditions. Thus, based on the foregoing, all the time-of-tender provisions of the domestic daylight container rates continue to apply on shipments originating in the Orient for transpacific transportation whenever a through rate is constructed using the domestic daylight container rates.

In our view, these requirements are fulfilled when the shipment is tendered t the carrier within the prescribed hours at the Orient point of origin.[2] Further, both Northwest and Pan American state in their pleadings that they currently can and do comply with all terms and conditions applicable to the daylight rate. Northwest in particular, refers to its use of a time/date stamp machine.

Tiger contends that Board Order 76-6-89, which permitted carriers to file and match rates based on a combination of the daylight container rates and transatlantic rates, permitted rate constructions involving domestic daylight container rates only on shipments outbound from the United States and then only with the proviso that all terms and conditions applicable to the daylight container rates be observed in the publication of the lower rates. However, Order 76-6-89 clearly permits the use of the domestic daylight container rates to construct through transatlantic rates in both directions although Pan American and Trans World Airlines, Inc. have chosen to publish such rates only outbound from the United States. Further, it was necessary to publish the through transatlantic rates since they applied via a different route of movement than the combination rates, and since they constituted a departure from the Board's equal-rates-per-mile formula prescribed in Docket 20522, Agreements Adopted by IATA Relating to North Atlantic Cargo Rates.

Therefore based on the foregoing, Tiger's request to the Board for the issuance of a declaratory order precluding the use of domestic daylight container rates in constructing through rates for inbound transpacific shipments will be denied.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 412, 414, and 1002 thereof,

It is ordered, That: 1. Except to the extent granted herein, the petition for the issuance of a declaratory order precluding the use of domestic daylight container rates in constructing through rates for inbound transpacific shipments by The Flying Tiger Line Inc. in Docket 30146 is hereby denied;

2. The motions of The Flying Tiger Line Inc., Japan Air Lines Company, Ltd., and Northwest Airlines, Inc. to file otherwise unauthorized documents are granted; and

3. Copies of this order shall be served upon The Flying Tiger Line Inc., Japan Air Lines Company, Ltd., Northwest Airlines, Inc., Pan American World Airways, Inc., and all other certificated air carriers and foreign air carriers.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15907 Filed 6-3-77;8:45 am]

[1] Order No. E-24374, November 8, 1966, Modification of Board's approval of IATA Resolution 014b re blocked space and deferred air freight proposed by The Flying Tiger Line Inc., Docket 17588 (Reprinted at 45 C.A.B. 893).

[2] In this regard, the time of tender requirements applicable to shipments moving under daylight rates are satisfied and do apply when such traffic is tendered to an agent of the carrier. Acceptance of the view of JAL that tender to an agent does not satisfy the tariff rule would be contrary to general principles of agency.

[Docket 30843, Order 77-5-154]

KLM ROYAL DUTCH AIRLINES

Transatlantic Specific Commodity Container Rates; Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of May, 1977.

By tariff revisions[1] bearing the issue date of April 29 and marked to become effective May 29, 1977, KLM Royal Dutch Airlines (KLM) proposes to establish specific commodity container rates and charges in various containers on fourteen commodities including foodstuffs, floral stock, printed matter, and numerous manufactured articles from New York to Amsterdam. The proposal results in a rate of approximately 94 cents per kg. for all commodities involved.

A complaint requesting rejection, or, in the alternative, suspension pending investigation, has been filed by Seaboard World Airlines, Inc. (Seaboard). The complaint alleges, inter alia, that notwithstanding repeated pronouncements by the Board, this filing fails to include a convincing showing that the rates will lead to the generation of new traffic; that the combined operating loss before interest and taxes of the three U.S.-flag carriers conducting North Atlantic freighter operations reached a total of $15 million in calendar year 1976; that the operating loss of Seaboard, which had the lowest operating costs, lowest yield, and highest load factor of any of these carriers was $6.2 million; that the allocation of main-deck space to freight service affords KLM a perfect opportunity to cross-subsidize below cost freight rates with unduly high passenger fares;[2] that these rates are more likely to increase KLM's already excessive penetration of sixth freedom markets; that the proposed rates, ranging from 23.3 to 23.5 cents per revenue ton-mile (RTM) are almost 33 percent below the average

[1] Revisions to Air Tariff Corporation, Agent, Tariff C.A.B. No. 52.

[2] Seaboard claims that KLM is one of the North Atlantic combination carriers which transports, in addition to passengers, cargo on the main deck of its wide-body aircraft.

revenue ton-mile cost level of 30.8 cents submitted in justification of the IATA Miami agreement in Docket 27573; and that complainant will suffer revenue dilution of $2.3 million if this filing is not suspended.

In support of its proposal KLM asserts, inter alia, that it is filing these container rates and charges for the purpose of offering this method of shipment to a larger segment of the market; that many shipments of the involved specific commodities presently move by surface transport because of the unavailability of a competitive rate level or the impracticality of assembling the requisite high minimum weight in a reasonable time period; and that, as a consequence, at the present time, air freight is not considered to be economically feasible, but these lower rates will provide the necessary stimulus for the industries involved to consider air freight in their total distribution for the targeted commodities. Furthermore, the proponent believes that the reduction granted the shipper for unitization is not unreasonable or excessive and a comparison with other rates will reveal that in many cases larger reductions have been granted.

Upon full consideration of the tariff filing, the carrier's justification, the complaint, and all other relevant factors, the Board has determined to dismiss the complaint and permit the filing to become effective.[3]

The proposal appears to have capability of attracting additional volumes of new traffic with a minimal possibility for diverting existing traffic. Additionally, considering that there is capacity available, no party has made a showing that the rates proposed are below carrier short-run costs. KLM indicates no meaningful dilution of current revenues will result since it is not now participating in carriage of this traffic. Thus, we believe that the proposal has the potential for generating new traffic to air transport and should, accordingly, be permitted to become effective.

Accordingly, it is ordered, That: The complaint of Seaboard World Airlines, Inc. in Docket 30843, be and hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[3] The Board can find no basis upon which to reject this proposal. In addition, KLM filed on May 16, approximately one week late, an answer to the Seaboard complaint; however, no satisfactory reason for the late-filed answer has been advanced.

[4] Dissenting, statement by Vice Chairman O'Melia filed as part of original document.

[Docket 30938; Order 77-5-157]

PACIFIC COMMON FARES INVESTIGATION

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of May, 1977.

The Board, by Order 77-3-163, dated March 29, 1977, determined that an investigation into the practices of common-faring in the North, Central and South Pacific areas for air service to the U.S. mainland was warranted. This determination was largely based upon the apparent disparities in transpacific fares which result from the current carrier practice of establishing identical fares to U.S. mainland gateway points from Pacific points regardless of the difference in distances involved. While that order specifically addressed the disparity involved in common-faring Seattle with other more distant mainland gateways for North and Central Pacific services, we made clear in that order that similar situations existing in the South Pacific also require investigation. The purpose of this order is to effectuate that determination and to generally define the scope of this proceeding.

The Board has concluded that the investigation should encompass the common fares applicable between international and overseas points in the Pacific, on the one hand, and U.S. mainland gateway points, on the other.[1] As a departure from mileage-related fares, these common fares raise similar questions of reasonableness, unjust discrimination, and undue preference and prejudice and should therefore be investigated.

It is our intention that the scope of this proceeding include a complete review of the various advantages and disadvantages of the current common-faring practice, some of which have already been outlined in Order 77-3-163. While we would anticipate that this review would concentrate primarily upon the competitive routing complexities, the inter-carrier revenue distribution, the inter-community movement of traffic, and the effect upon the individual passenger's fare, the parties will have the opportunity to urge the inclusion of additional issues under the usual procedures. Further, the parties to this investigation are requested to focus upon the respective advantages and disadvantages of alternative fare structures for transpacific passenger services in order that the Board may fully evaluate the merits of each alternative offered. In this regard, interested civic and commercial groups, as well as foreign air carriers, that may be affected by the Board's decision in this proceeding are encouraged to participate.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered That: 1. An investigation be instituted to determine whether the common fares between points in the North, Central, and South Pacific areas, on the one hand, and United States gateways, on the other, applicable to overseas and foreign air transportation, and rules, regulations and practices affecting such fares, including revisions thereto and reissues thereof, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and, if found to be unlawful, in connection with foreign air transportation to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices, and in connection with overseas air transportation to determine and prescribe the lawful maximum or minimum, or maximum and minimum fares, and rules, regulations, and practices affecting such fares;

2. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

3. Copies of this order be served upon Air New Zealand Limited; China Airlines, Ltd.; Continental Air Lines, Inc.; Japan Air Lines Company, Ltd.; Korean Air Lines Co. Ltd.; Northwest Airlines, Inc.; Pan American World Airways, Inc.; Philippine Air Lines, Inc.; Qantas Airways Limited; Union de Transportes Aeriens (U.T.A.); and "VARIG" (Viacao Aerea Rio-Grandense), which are hereby made parties to the investigation and upon the Puget Sound Traffic Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15904 Filed 6-3-77;8:45 am]

[1] The issue of common fares applicable between points on the U.S. mainland and Hawaii is pending before the Board in the *Domestic Common Fares Investigation*, Docket 27330.

[Docket 30055]

PHOENIX-LAS VEGAS-RENO COMPETITIVE NONSTOP SERVICE PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on July 26, 1977, at 9:30 a.m. (local time), in Meeting Room 3, Pioneer Theatre Auditorium, 100 South Virginia Street, Reno, Nevada, 89504, before the undersigned.

For information concerning the issues involved and other details in this pro-

ceeding, interested persons are referred to the prehearing conference report served on May 9, 1977, the supplemental prehearing conference report served on May 25, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 31, 1977.

RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc.77-15902 Filed 6-3-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

IOWA ADVISORY COMMITTEE

Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER Monday, May 23, 1977, (FR Doc 77-14521) on page 26236 is hereby amended. The meeting will be held on June 15, 1977 at 5:00 p.m. and will end at 10:00 p.m. The meeting will convene again on June 16, 1977 at 9:00 a.m. and will end at 1:00 p.m. The place of the meetings will remain the same.

Dated at Washington, D.C. June 1, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-15888 Filed 6-3-77;8:45 am]

NEW HAMPSHIRE ADVISORY COMMITTEE

Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER, Monday, May 16, 1977, (FR Doc. 77-13883) on page 24764 is hereby amended. The meeting will be at the Ramada Inn instead of the New Hampshire Highway Hotel and it will be on June 27, 1977. The time remains the same.

Dated at Washington, D.C. June 1, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-15889 Filed 6-3-77;8:45 am]

PENNSYLVANIA 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 in Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 2:00 p.m. on June 30, 1977, in the Federal Building, 10th Floor, 600 Arch Street, Room 10320, Philadelphia, Pennsylvania 19126.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within that State.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C. June 1, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-15890 Filed 6-3-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on relationship to the head of the household, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special census are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since June 30, 1976, for which tabulations were completed between May 1, 1977, and May 31, 1977.

Dated: May 27, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

State/place or special area	County	Date of census	Population
California: El Centro, city	Imperial	Jan. 10, 1977	22,660
Illinois:			
Glendale Heights, village	DuPage	Mar. 9, 1977	18,364
Mount Vernon, city	Jefferson	do.	16,861
Newton, city	Jasper	Mar. 28, 1977	3,188
Palestine, village	Crawford	Mar. 14, 1977	1,704
Indiana: Plainfield, town	Hendricks	Mar. 22, 1977	8,650
Iowa:			
West Bend, city	Kossuth and Palo Alto	Mar. 14, 1977	965
West Branch, town	Cedar	do.	1,612
Michigan:			
Algoma, township	Kent	Mar. 2, 1977	3,741
Laketown, township	Allegan	Mar. 9, 1977	2,851
Oregon, township	Lapeer	Mar. 1, 1977	4,637
Tyrone, township	Livingston	Mar. 15, 1977	5,033
Minnesota: Marshall, city	Lyon	Feb. 15, 1977	10,194
New York: Farmington, town	Ontario	Mar. 23, 1977	7,562
Ohio: St. Clairsville, village	Belmont	Mar. 29, 1977	5,197
Tennessee: Jackson, city	Madison	Jan. 13, 1977	41,009
Wisconsin: Waukesha, town	Waukesha	Mar. 1, 1977	6,268

[FR Doc.77-15918 Filed 6-3-77;8:45 am]

National Oceanic and Atmospheric Administration

ST. LOUIS ZOOLOGICAL PARK

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to import marine mammals for public display as authorized by the Marine 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).

St. Louis Zoological Park, Forest Park, St. Louis, Missouri 63110, requests to import four (4) Baikal seals (*Pusa siberica*) currently held in captivity by the U.S.S.R. Central Zoological Animal Export Clearing Office in Moscow, U.S.S.R.

The animals will be imported by commercial air freight and private truck.

The St. Louis facility provides indoor and outdoor connected pools for the 4 seals. The indoor pool measurements are 7 feet 6 inches by 18 feet 6 inches by 3 feet deep. The outdoor pool is 40 feet by 20 feet by 7 feet deep with a 13 foot by 15 foot haul-out area.

The Baikal seals are desired to provide recreational and educational benefits to the estimated 2.5 million visitors that visit the facility annually. The facility is a non-profit organization. The St. Louis Zoo has displayed pinnipeds in its collection since 1918. The Zoo has a full time veterinarian on the staff with seven years experience.

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.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

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 Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 6, 1977. 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 Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: May 31, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-15887 Filed 6-3-77;8:45 am]

IMPORTERS' TEXTILE ADVISORY COMMITTEE; EXPORTERS' TEXTILE ADVISORY COMMITTEE

Reestablishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V, 1975)) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with OMB, the Secretary of Commerce has determined that the reestablishment of the Importers' Textile Advisory Committee and Exporters' Textile Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of Commerce by law. The Importers' Textile Advisory Committee was initially established by the Secretary of Commerce on August 13, 1963, and the Exporters' Textile Advisory Committee was initially established by the Secretary of Commerce on March 24, 1966.

The Importers' Textile Advisory Committee, based on its members' experience and expertise in textile and apparel importing, will continue to advise Department officials of the effects on import markets of cotton, wool and man-made fiber textile agreements. The Exporters' Textile Advisory Committee, based on its members' experience and expertise in textile and apparel exporting, will continue to advise Department officials on the identification and surmounting of barriers to the expansion of textile exports, and on methods of encouraging textile firms to participate in export expansion.

The Importers' Textile Advisory Committee provides advice and information on foreign textile and apparel export markets and the effect on the U.S. textile and apparel import market of U.S. textile restraint agreements. Importers are the group immediately involved in these markets and the information they provide is unavailable from other sources. The Exporters' Textile Advisory Committee provides advice and information to Government officials engaged in expanding textile and apparel exports. Foreign governments' import rules and requirements are complex, extensive, and frequently changing. Exporters are the group most directly effected by these rules and quickly learn of their effects. They are best able to apprise the United States Government of the impact of foreign restrictions and other factors affecting textile exports. Separate committees are necessary since the functions of the committees are distinct and few persons are specialists in textile and apparel exporting as well as importing. The functions of the Committees cannot be accomplished by any organizational element or other committees.

The membership of both committees will consist of not more than 20 members, appointed by the Secretary of Commerce. The Importers' Textile Advisory Committee will have members associated with the import of textile and apparel products and consumer or public interest groups. Members are appointed to insure a balanced representation of the textile and apparel products import industry and public interest views. The Exporters' Textile Advisory Committee will have members associated with the textile and apparel exporting industry and consumer or public interest groups. Members are appointed to insure a balanced representation of the textile and apparel exporting industry and public interest views.

Each Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The Department's Domestic and International Business Administration will provide staff support and services for the Committees. Charters of the Committees will be filed, in accordance with law, fifteen days from the date of this notice.

Interested persons are invited to submit comments regarding the reestablishment of the Importers' Textile Advisory Committee and the Exporters' Textile Advisory Committee. Such comments as well as any inquiries, may be directed to Mr. Arthur Garel, Director, Office of Textiles, Bureau of Resources and Trade Assistance, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5078.

Dated: May 27, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-15848 Filed 6-3-77;8:45 am]

Office of the Secretary

INDUSTRY POLICY ADVISORY COMMITTEE FOR MULTILATERAL TRADE NEGOTIATIONS

Renewal

Pursuant to the authority delegated under Executive Order 11846 of March 27, 1975, the Secretary of Commerce (hereinafter the Secretary) and the Special Representative for Trade Negotiations (hereinafter the Special Representative) jointly have determined to renew the Industry Policy Advisory Committee under the provisions of Section 135(c)(1) of the Trade Act of 1974 and the Federal Advisory Committee Act (5 U.S.C. App. 1).

The Committee was originally established in February 1974, pursuant to the Federal Advisory Committee Act, and in May 1975 was reestablished pursuant to the provisions of Section 135(c)(1) of the Trade Act of 1974.

The Committee advises, consults with, and makes recommendations to the Special Representative for Trade Negotiations, in conjunction with the Secretary of Commerce, on matters concerning the multilateral trade negotiations to be undertaken by the United States pursuant to Sections 101 and 102 of the Trade Act of 1974.

The Committee draws on the expertise and knowledge of its members, on the technical advice of a number of related technical level advisory committees which are established for individual product sectors of the American industry, and on such data as may from time to time be provided it by the Department and by the Office of the Special Representative for Trade Negotiations.

The Committee (a) provides policy advice regarding overall industry views and the work programs of the related technical-level advisory committees; (b) maintains continuing liaison with the ongoing work of the technical-level committees; (c) reviews and advises on the U.S. Government-prepared summary of the general thrust of recommendations developed in the various technical-level committees' sector papers for their relation to overall industry views; (d) furnishes supplementary policy advice, as necessary, regarding significant developments arising during the course of the actual negotiations; and (e) performs such other advisory functions as may be requested by the Secretary of Commerce and the Special Representative for Trade Negotiations.

The Committee is composed of approximately 20 members appointed from, and reasonably representative of, U.S. industry by the Secretary and the Special Representative. Members are appointed jointly by the Secretary and the Special Representative and serve at the discretion of the Secretary and the Special Representative.

The Committee functions solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and Section 135 of the Trade Act of 1974.

Copies of the Committee's charter will be filed with appropriate committees of

the Congress, and a copy will be forwarded to the Library of Commerce concurrent with the publication of this notice.

Inquiries or comments may be addressed to Mr. Edgar Gealy, Coordinator, Industry Consultations Policy Staff, Office of International Trade Policy, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–3268.

Dated May 26, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-15845 Filed 6-3-77;8:45 am]

INDUSTRY SECTOR ADVISORY COMMITTEES FOR MULTILATERAL TRADE NEGOTIATIONS

Renewal

Pursuant to the authority delegated under Executive Order 11846 of March 27, 1975, the Secretary of Commerce (hereinafter the Secretary) and the Special Representative for Trade Negotiations (hereinafter the Special Representative) jointly have determined to renew the 27 Industry Sector Advisory Committees (as enumerated below) under the provisions of Section 135(c)(2)(B) of the Trade Act of 1974 and the Federal Advisory Committee Act (5 U.S.C. App. 1). In reaching such decision the Secretary and the Special Representative have consulted with interested private organizations and have taken into account the factors set forth in Subsection 135(c)(2)(B) of the Trade Act of 1974.

Twenty-six of the committees were originally established in April 1974 pursuant to the Federal Advisory Committee Act and in May 1975, were reestablished pursuant to the provisions of Section 135(c)(2) of the Trade Act of 1974. The twenty-seventh committee was established in July 1975, pursuant to the provisions of Section 135(C)(2) of the Trade Act of 1974. These 27 committees are used solely for advisory purposes by the Special Representative, in conjunction with the Secretary, on matters which are of mutual concern to each of the committee's particular industry sector and to the United States in connection with the multilateral trade negotiations undertaken by the United States pursuant to Sections 101 and 102 of the Trade Act of 1974.

Each Committee performs such functions and duties and prepares such reports as provided for in Section 135 of the Trade Act of 1974 with respect to sector advisory committees established pursuant to subsection 135(c)(2) thereof. In particular, each Committee provides detailed views, information, and recommendations regarding trade barriers which affect the products of its sector; maintains liaison with the relevant activities of the Industry Policy Advisory Committee for Multilateral Trade Negotiations (IPAC), including, when necessary, sending a representative to IPAC meetings where the Committee's recommendations are reviewed; provides additional advice, as necessary, on specific product considerations which arise during the course of the negotiations; and performs such other advisory functions relevant to the trade negotiations as may be requested by the Secretary and the Special Representative or their designees.

Each Committee has balanced representation consisting of approximately 25 members appointed from and reasonably representative of the industries encompassed in each of the individual committee sectors. Members are appointed jointly by the Secretary and the Special Representative and serve at the discretion of the Secretary and the Special Representative.

Each Committee functions solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and Section 135 of the Trade Act of 1974.

Copies of each Committee's charter will be filed with appropriate committees of the Congress, and a copy will be forwarded to the Library of Congress concurrent with the publication of this notice.

Inquiries or comments may be addressed to Mr. Edgar Gealy, Coordinator, Industry Consultations Policy Staff, Office of International Trade Policy, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–3268.

The aforementioned 27 Industry Sector Advisory Committees for MTN include the following:

Food and Kindred Products
Textiles and Apparel
Lumber and Wood Products
Paper and Products
Industrial Chemicals and Fertilizers
Drugs, Soaps, Cleaners, and Toilet Preparations
Paints, Gum and Wood Chemicals, and Miscellaneous Chemical Products
Rubber and Plastics Materials
Leather and Products
Stone, Clay, and Glass Products
Ferrous Metals and Products
Nonferrous Metals and Products
Hand Tools, Cutlery, and Tableware
Other Fabricated Metal Products
Construction, Mining, Agricultural, and Oil Field Machinery and Equipment
Office and Computing Equipment
Machine Tools, Other Metalworking Equipment, and Other Nonelectrical Machinery
Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines
Consumer Electronic Products and Household Applicances
Scientific and Controlling Instruments
Photographic Equipment and Supplies
Communication Equipment and Non-Consumer Electronic Equipment
Railroad Equipment and Miscellaneous Transportation Equipment
Aerospace Equipment
Automotive Equipment
Miscellaneous Manufactures, Toys, Musical Instruments, Furniture, etc.
Retailing

Dated: May 26, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-15846 Filed 6-3-77;8:45 am]

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, (5 U.S.C. App. I (Supp. V, 1975)) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with OMB, the Secretary of Cemmerce has determined that the renewal of the Management-Labor Textile Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of Commerce by law.

The Committee was initially established by the Secretary of Commerce on October 18, 1961, pursuant to a Presidential directive of October 18, 1961. Its purpose was and continues to be to advise Department officials on problems and conditions in the textile and apparel industry. The Committee furnishes information on world trade in textiles and apparel to officials in the Department of Commerce and to the Committee for the Implementation of Textile Agreements, the Textile Trade Policy Group, U.S. representatives to the General Agreement on Tariffs and Trade, and U.S. negotiators of textile agreements.

The Management-Labor Textile Advisory Committee advises the Government on the operation and effectiveness of textile agreements in order to protect the domestic market from disruptive imports. This advice enables Federal officials to take early action to insure that effective operation. The information and recommendations of the Committee are not only essential to the effective functioning of the textile agreements but are invaluable to U.S. negotiators in developing new textile agreements. The Committee represents people from the industry directly affected by the textile program, and it is essential that there be a mechanism for obtaining their views and advice. The Committee's functions cannot be accomplished by an organizational element or other committees.

The Committee will have balanced representation of not more than 25 members associated with the domestic textile and apparel industry, labor unions, and consumer or public interest groups. Members will be appointed by the Secretary of Commerce and serve at the Secretary's discretion.

The Committee will continue to function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress, and a copy will be forwarded to the Library of Congress concurrent with the publication of this notice.

Inquiries or comments may be addressed to Mr. Arthur Garel, Director, Office of Textiles, Bureau of Resources and Trade Assistance, Domestic and International Business Administration, U.S. Department of Commerce, Wash-

ington, D.C. 20230, telephone 202-377-5078.

Dated: May 27, 1977.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-15847 Filed 6-3-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

LITHIUM-7 SALES

Revision of Charge

The U.S. Energy Research and Development Administration proposes to revise the charge for lithium-7 of 99.9 percent or better isotopic purity, and in the form of lithium hydroxide monohydrate, from $260 per kilogram of contained lithium to $3.00 per gram of contained lithium. The price of research quantities of this high-purity lithium-7, in gram lots not to exceed 50 grams to any purchaser in any 12-month period, will continue to be $.50 per gram of lithium. The price of 99.9 percent lithium-7 available as fluoride or other chemical forms will continue to be $260 per kg. In addition, the price of lithium-7 which has isotopic purity of 98.4 percent or lower, will remain unchanged at $51.00 per kilogram of lithium. The above prices apply to all sales of lithium-7 made by ERDA through the Isotopes Sales Department of the Oak Ridge National Laboratory.

Due to the limited size of the ERDA inventory of high-purity lithium-7, sales by ERDA presently are limited to domestic purchasers only. Purchases in the U.S. by foreign customers may be made only from commercial suppliers.

Further information about the sale conditions for high-purity lithium-7 from the ERDA stockpile may be obtained by writing to:

Union Carbide Nuclear Company, Oak Ridge National Laboratory, Isotope Sales Department, P.O. Box X, Oak Ridge, Tennessee 37830.

These prices and quantity limits become effective June 6, 1977.

Dated at Washington this 25th day of May, 1977, for the Energy Research and Development Administration.

ROBERT W. FRI,
Acting Administrator.

[FR Doc.77-15866 Filed 6-3-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 741-7]

WATER QUALITY MANAGEMENT PLAN EL PASO AND TELLER COUNTIES

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Water Quality Management Plan, El Paso and Teller Counties, Colorado.

The proposed action, pursuant to EPA's policies, guidelines and regulations under section 208 of the Federal Water Pollution Control Act, is the EPA approval, conditional approval or disapproval of the proposed Water Quality Management Plan for El Paso and Teller Counties in Colorado. The FEIS consists of a short summary document which discusses the significant environmental issues addressed in the Water Quality Management Plan and EPA's recommended course of action.

This FEIS was transmitted to the Council on Environmental Quality (CEQ) on May 23, 1977. In accordance with CEQ's Guidelines (40 CFR 1500.-11), no administrative action will be taken until thirty days after receipt of this FEIS by the Council. Copies of the FEIS are available for review and comment from: Mr. Terry Anderson, Environmental Protection Agency, Region 8, 1860 Lincoln Street, Denver, Colorado 80203, telephone 303-837-2721.

Copies of the FEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region 8 Library, 1860 Lincoln Street, Denver, Colorado 80203.

Environmental Protection Agency, Public Information Reference Unit, Room 2922 Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Pikes Peak Area Council of Government, 27 East Vermijo Street, Colorado Springs, Colorado.

Information copies of the FEIS are available at cost (10¢/page) from the Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, D.C. 20036. Please reference ELR No. 70623.

Copies of the FEIS have been sent to various Federal, State and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: June 1, 1977.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.77-15943 Filed 6-3-77;8:45 am]

[FRL 741-2]

AIR QUALITY CRITERIA FOR ATMOSPHERIC LEAD

Availability of External Review Draft

External Review Draft No. 2 of Air Quality Criteria for Atmospheric Lead is available from the Criteria and Special Studies Office, Health Effects Research Laboratory, EPA, Research Triangle Park, North Carolina 27711. Telephone No. 919-549-8411 ext. 2266 or 2267.

Date: May 27, 1977.

WILSON K. TALLEY,
Assistant Administrator, for Research and Development.

[FR Doc.77-15948 Filed 6-3-77;8:45 am]

[FRL 741-4]

DENVER REGIONAL WASTEWATER FACILITIES

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Denver Regional Wastewater Facilities in the Clean Water Program.

The proposed action is for eight facility plans in the Denver Metropolitan area and the 208 planning. The eight municipalities include South Adams County, Englewood, and Littleton, South Lakewood, Cherry Creek, Goldsmith Gulch and Lower South Platte, Clear Creek and Sand Creek, Westminster and Broomefield, and the Metro Denver Sewage Disposal District No. 1.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on May 27, 1977. In accordance with CEQ's notice of availability, comments are due to July 18, 1977. Copies of the DEIS are available from: Mr. Bob Doyle, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80203 (telephone: 303-837-4831 or FTS 8-327-4831).

To receive additional public comments the Environmental Protection Agency, Region VIII, will hold open public hearings on the DEIS on July 18, 1977 at 7 pm at the Marriotte Hotel, 6363 East Hampten Avenue, Denver, Colorado and on July 19, 1977 at 7 pm at the Denver U.S. Post Office, 1823 Stoup Street, Denver, Colorado. All interested persons are invited to express their views at this hearing. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VIII Library, 1860 Lincoln Street, Denver, Colorado

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, D.C. 20036. Please reference ELR No. 70663.

Copies of the DEIS hase been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: June 1, 1977.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.77-15946 Filed 6-3-77;8:45 am]

[FRL 741-5]

PROPOSED STANDARDS OF PERFORMANCE FOR LIME MANUFACTURING PLANTS

Availability of Draft Environmental Impact Statement

Pursuant to the Environmental Protection Agency (EPA) Procedures for the Voluntary Preparation of Environmental Impact Statements (39 FR 37419), the EPA has prepared a draft environmental impact statement (DEIS) for the Proposed Standards of Performance for Lime Manufacturing Plants.

The proposed standards of performance for new and modified rotary lime kilns and hydrators at lime manufacturing plants are being proposed under the authority of section 111 of the Clean Air Act. The standards require the control of particulate emissions from the specified affected facilities. These facilities account for virtually all of the particulate emissions at lime plants. Preceding the act of proposal has been the Administrator's determination that emissions from lime plants contribute to the endangerment of public health or welfare. In accordance with section 117 of the Act, proposal of the standards was preceded by consultation with appropriate advisory committees, independent experts, industry representatives and Federal departments and agencies.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on May 26, 1977. In accordance with CEQ's notice of availability, comments are due on July 18, 1977. Copies of the DEIS are available for review and comment from the: Public Information Center (PM-215), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (telephone: 202-755-0707).

Copies of the DEIS are available for public inspection at the following location:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, D.C. 20036. Please reference ELR No. 70654.

Copies of the DEIS have been sent to various Federal, State and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: June 1, 1977.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.77-15945 Filed 6-3-77;8:45 am]

[FRL 741-3]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE

Subcommittee on Scientific Criteria for Environmental Lead; Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a two-day meeting of the Subcommittee on Scientific Criteria for Environmental Lead of the Science Advisory Board will be held on June 29 and 30, 1977 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia. The meeting will start at 9 a.m. on June 29, 1977.

The purpose of the meeting will be to provide advice and consultation on air quality criteria for atmospheric lead and, specifically, to review and comment on a draft document entitled, "Air Quality Criteria for Lead," External Review Draft No. 2, May 1977, prepared by the Agency's Office of Research and Development.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. June 23, 1977. Please ask for Mrs. Ilene F. Stein, or Ms. Barbara Robinson. The telephone number is 703-557-7720.

LLOYD T. TAYLOR,
Acting Staff Director, Science Advisory Board.

JUNE 1, 1977.

[FR Doc.77-15947 Filed 6-3-77;8:45 am]

[FRL 741-6]

WASTEWATER TREATMENT FACILITIES

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Wastewater Treatment Facilities in Henrico County, Virginia.

The proposed action involves Federal financial assistance for the construction of a wastewater treatment plant and a system of interceptor sewers to serve Henrico County and parts of Goochland and Hanover Counties, Virginia.

The Environmental Protection Agency, Region III, will hold a joint public hearing to solicit testimony concerning the DEIS and concurrently prepared Facilities Plan (available from the County) on Tuesday, June 21, 1977, at 7:30 pm at the Hermitage High School, 8301 Hungary Spring Road. Individuals and representatives of organizations wishing to testify at the public hearing are requested to furnish a copy of their proposed testimony along with their name, address, telephone number and the organization they represent to the EIS Preparation Section, Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106 not later than the close of business on June 17, 1977.

Witnesses should limit their oral presentation to a five minute summary of their written testimony. If time permits, others present at the hearing who wish to testify may do so after the witness list has been called.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on May 26, 1977. In accordance with CEQ's notice of availability, comments are due on July 18, 1977. Copies of the DEIS are available for review and comment from: Environmental Preparation Section, Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106 (telephone 215-597-4532).

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region III, Library, 6th and Walnut Streets, Philadelphia, Pennsylvania.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, D.C. 20036. Please reference ELR No. 70623.

Copies of the DEIS have been sent to various Federal, State, and local agencies and interested individuals as outlined in the CEQ Guidelines.

Dated: June 1, 1977.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.77-15944 Filed 6-3-77;8:45 am]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION; FIRST CIRCUIT PANEL

Meetings

The schedule of future meetings of the nominating panel of the First Circuit of the United States Circuit Judge Nominating Commission (Chairman: Paul Freund) is as follows:

1. The second meeting will be held on June 11, 1977 at 10:00 a.m. in Boston, Massachusetts, Room 1620, John W. McCormack Building, 10 Post Office Square.

The purpose of this meeting will be to interview candidates and will not be open to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6)).

2. The third meeting will be held on June 17, 1977, at 10:00 a.m. in Boston, Massachusetts, Room 1620, John W. McCormack Building, 10 Post Office Square.

The purpose of this meeting will be to interview candidates and will not be open to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF U.S.C. 552b(c)(6)).

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JUNE 1, 1977.

[FR Doc.77-15885 Filed 6-3-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

PETITIONS FOR RECONSIDERATION OF ACTIONS

Rulemaking Proceedings Filed

MAY 31, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20449, RM-2078, RM-2225, RM-2245	Pts. 81 and 83	Amendment of pts. 81 and 83 to provide for the use of certain radiotelephone frequencies between 5 and 25 MHz at Mobile, Ala.; cross-licensing of radiotelephone frequencies at Miami, Fla., New York, N.Y., and San Francisco, Calif.; and additional frequencies at Miami, Fla.	
		Filed by Edgar Mayfield, Alfred G. Walton and William F. Finnegan, attorneys for American Telephone and Telegraph Co.	May 20, 1977
20906, RM-2568	Secs. 81.306(b) and 83.354(b).	Amendment of secs. 81.306(b) and 83.354(b) of the Commission's rules to provide for the use of an additional 4 MHz frequency at Mobile, Ala.	
		Filed by Edgar Mayfield, Alfred G. Walton and William F. Finnegan, attorneys for American Telephone and Telegraph Co.	Do.
21635, RM-2786	Sec. 73.202(b)	Amendment of sec. 73.202(b), table of assignments, FM broadcast stations. (Lancaster-Fennimore, Wis.)	
		Filed by Bert R. Peterson	May 26, 1977

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-15762 Filed 6-3-77;8:45 am]

WORLD ADMINISTRATIVE RADIO CONFERENCE PREPARATORY ADVISORY COMMITTEES

Renewal

The Federal Communications Commission is responsible for identifying and documenting the future non-government communication requirements of the United States in preparation for the 1979 General World Administrative Radio Conference (WARC) of the International Telecommunication Union. To assure that the interests of the United States are adequately represented at the 1979 Conference, studies covering current standards, procedures, regulations, frequency allocation tables, and future spectrum requirements must be performed for the various radio services utilized in this country.

In June, 1975, the Commission established twenty-four advisory committees to assist in conducting the required studies. During the past two years, the Commission has terminated ten of these original twenty-four committees. The fourteen remaining committees are still actively involved in the WARC preparatory effort and must continue in existence in order to furnish advice on basic policy issues regarding the future needs of radio services regulated by the Commission. Accordingly, the Commission finds it necessary to renew the charter for each of the following committees:

WARC Advisory Committee for Amateur Radio
WARC Advisory Committee for Aural, AM
WARC Advisory Committee for Aural, FM
WARC Advisory Committee for Auxiliary Broadcast Services
WARC Advisory Committee for Domestic Land Mobile Radio
WARC Advisory Committee for Fixed Satellite
WARC Advisory Committee for International Broadcast
WARC Advisory Committee for Land Mobile Radio
WARC Advisory Committee for Private Microwave
WARC Advisory Committee for Radio Astronomy
WARC Advisory Committee for Radio Relay (Common Carrier)
WARC Advisory Committee for Broadcasting Satellite Service (11.7-12.2 GHz Frequency Band)
WARC Advisory Committee for Television
WARC Industry Advisory Committee

These advisory committees assist the Commission's overall 1979 WARC preparation by:

(1) Conducting studies necessary to velop valid projections of spectrum requirements for the period 1980-2000;

(2) Providing input to help the Commission anticipate changes in technology which will affect the future demand for radio frequencies;

(3) Evaluating Commission proposals for frequency allocations in terms of cost, practicality, and potential effect upon nongovernment users of communication services.

It is anticipated that one of the committees being renewed, the WARC Industry Advisory Committee, will be able to complete its work by December, 1977. This committee is therefore being renewed for a six-month period only, extending until December 5, 1977. The other thirteen committees are being renewed for the customary two-year chartering period.

The Federal Communications Commission, with the concurrence of the Office of Management and Budget, has determined that renewal of each of the fourteen advisory committees identified above is necessary and in the public interest. This notice of renewal is published in compliance with the requirements of the Federal Advisory Committee Act (Public Law 92-463) and the Office of Management and Budget Circular A-63. Individuals who desire additional information concerning the work of these WARC preparatory committees may contact the Commission's International Conference Staff, Office of Chief Engineer, 2025 "M" Street, N.W., Room 7302, Washington, D.C. 20554, Telephone (202) 632-7067.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-16014 Filed 6-3-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of May 13 Through May 20, 1977

Notice is hereby given that during the week of May 13 through May 20, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

MAY 28, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of May 13, through May 20, 1977*

Date	Name and location of applicant	Case No.	Type of submission
May 13, 1977	Consumer Federation of America, Washington, D.C. (If granted: The FEA's May 6, 1977, decision and order would be modified and Consumer Federation of America would receive additional financial assistance to reimburse it for expenses it incurs in representing consumer interests in a rulemaking proceeding which the FEA will convene in connection with the possible reimposition of controls on middle distillates.)	FMR-0106	Modification of decision and order in Consumer Federation of America, 5 FEA Par. ..... (May 6, 1977).
Do	Montaup Electric Co., Washington, D.C. (If granted: The FEA would grant the Montaup Electric Co. additional time in which to submit written comments and information relating to the Apr. 25, 1977, notice of intention to issue prohibition orders to certain powerplants (region I).)	FEE-4148 FES-4148	Exception to the FEA's Apr. 25, 1977, notice of intention to issue prohibition orders to certain powerplants (region I). Stay requested.
Do	Phillips Petroleum Co., Bartlesville, Okla. (If granted: The Phillips Petroleum Co. would receive an extension of the price relief granted in the FEA's Feb. 18, 1977, decision and order which permitted the firm to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Cimarron, Puckett, and Sooner plants.)	FXE-4149—FXE-4151	Extension of exception relief in Phillips Petroleum Co., 5 FEA Par. ..... (Feb. 18, 1977).
Do	Potlatch Corp., San Francisco, Calif. (If granted: The FEA's Apr. 13, 1977, information request denial would be rescinded and the Potlatch Corp. would receive access to FEA reports prepared by PEDCo-Environmental, an FEA contractor, relating to the No. 1 power boiler at Potlatch's Lewiston, Idaho generating facility.)	FFA-1317	Appeal of information request denial dated Apr. 13, 1977.
Do	Shell Oil Co., Houston, Tex. (If granted: The Shell Oil Co. would receive a stay of the requirements of the Apr. 26, 1977, remedial order pending a final determination of its appeal of that order which it intends to file.)	FRS-1319	Stay request of FEA region VI's remedial order issued Apr. 26, 1977.
Do	Twin-Tech Oil Co., Houston, Tex. (If granted: The FEA's Mar. 28, 1977, decision and order would be modified and Twin-Tech Oil Co. would receive additional exception relief which would permit the firm to increase its selling prices for natural gas liquids and natural gas liquid products above the maximum permissible price levels specified in 10 CFR, pt. 212, subpt. K.)	FXA-1318 FES-1318	Appeal of decision and order in Twin-Tech Oil Co., 5 FEA Par. ..... (Mar. 28, 1977). Stay requested.
May 16, 1977	Atlantic Richfield Co., Dallas, Tex. (If granted: Exception relief to permit the Atlantic Richfield Co. to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following plants would be extended: Chesterville, Crossett, Elk Basin, Halley, Hull, Kermit, Lapeyrouse, Ojai Timber, Pledger, Riverton Dome, Silsbee, South Coles Levee, Taft, West Lake, and Worland.)	FXE-4159—FXE-4173	Extension of exception relief granted in Atlantic Richfield Co., case Nos. FXE-3755 through FXE-3765 (decided Mar. 30, 1977) (unreported decision); Atlantic Richfield Co., 5 FEA par. 83,017 (Dec. 30, 1976); Atlantic Richfield Co., 4 FEA par. 83,191 (Nov. 19, 1976).
Do	Empire State Fuel, Inc., New York, N.Y. (If granted: The FEA's Apr. 29, 1977, remedial order would be rescinded and Empire State Fuel, Inc. would not be required to refund overcharges made on its sales of No. 2 fuel oil.)	FRA-1321	Appeal of FEA region's II remedial order issued Apr. 29, 1977.
Do	Indian Wells Oil Co., Kearney, Mo. (If granted: Exception relief to permit the Indian Wells Oil Co. to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products would be extended.)	FXE-4158	Extension of exception relief granted in Indian Wells Oil Co., case No. FXE-3596 (decided Feb. 18, 1977) (unreported decision.)
Do	Jamar Oil Co., Broken Arrow, Okla. (If granted: The FEA's May 6, 1977, decision and order would be modified to adjust the percentage of Jamar's base period use of motor gasoline which will be assigned to a new base period supplier.)	FEX-0158	Supplemental order to decision and order in Jamar Oil Co., 5 FEA par. ..... (May 6, 1977).
Do	Leonard E. Belcher, Inc., Arlington, Va. (If granted: Leonard E. Belcher, Inc. would be granted authority by FEA's region I to issue subpoenas during the course of an FEA compliance proceeding against it. The firm would also receive a stay of any proceedings by FEA region I in connection with a Mar. 15, 1977, notice of probable violation issued to Belcher pending a final determination of this request.)	FSG-0044 FES-0095	Request for special redress. Stay requested.
Do	Maupin Retail Sales, Eaton Rapids, Mich. (If granted: Maupin Retail Sales would receive a stay of the remedial order issued to the firm by region V and would not be required to lower its prices on sales of propane.)	FRS-1330	Stay request.
Do	McCulloch Gas Processing Corp., Washington, D.C. (If granted: The exception relief to permit the McCulloch Gas Processing Corp. to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Fairview, Hilight, Jamison Prong, Tule Creek, and Well Draw plants would be extended.)	FXE-4174—FXE-4178	Extension of exception relief granted in McCulloch Gas Processing Corp., case Nos. FXE-3650 through FXE-3655 (decided Mar. 18, 1977) (unreported decision); McCulloch Gas Processing Corp., 5 FEA par. 83,026 (Dec. 29, 1976).
Do	Monsanto Co., St. Louis, Mo. (If granted: Crude oil produced from the following properties would be sold at upper tier ceiling prices: Billeaud BP SU G well No. 1, St. Martin Parish, La., Lucia G SU C well No. 2, St. Mary's Parish, La., Buckman well No. 1, Stark County, N. Dak., and Hendrick "F", Winkler County, Tex.)	FEE-4152—FEE-4155	Price exception (sec. 212.73).
Do	Permian Corp., Houston, Tex. (If granted: The Permian Corp. would receive an extension of the exception relief granted on Dec. 13, 1976, to permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Possum Kingdom plant and the Todd Ranch plant.)	FXE-4156 FXE-4157	Extension of exception relief granted in Permian Corp., 5 FEA par. 83,261 (Dec. 13, 1976).
Do	Sunland Refining Corp., Los Angeles, Calif. (If granted: The FEA would review the entitlements exception relief granted to the Sunland Refining Corp. during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0159	Review of entitlements exception relief (supplemental order).

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Sunland Refining Corp., Bakersfield, Calif. (If granted: Sunland would receive a stay of the additional entitlement purchase obligations specified in the FEA's May 13, 1977, decision and order pending a decision on its pending request (case No. FEX-0159).)	FES-0094	Stay of the requirement[5] in FEA's decision and order in Sunland Refining Corp., 5 FEA Par. .... (May 13, 1977).
Do.....	Tenneco Oil Co., Houston, Tex. (If granted: The FEA's Mar. 31, 1977, decision and order would be modified to permit the Tenneco Oil Co. to increase its selling prices for motor gasoline above the maximum allowable levels determined in accordance with the provisions of 10 CFR, pt. 212, subpt. E (the refiner price regulations).)	FMR-0107	Modification of decision and order in Tenneco Oil Co., 5 FEA par. .... (Mar. 31, 1977).
Do.....	Texas Asphalt & Refining Co., Euless, Tex. (If granted: The FEA's Apr. 8, 1977, supplemental order would be modified to permit TARCO to request a fee-exempt allocation for new or expanded refinery capacity without having to forego the exception relief granted to the firm in that order.)	FEX-0157	Supplemental order.
Do.....	Texas Asphalt & Refining Co. (If granted: The FEA's Apr. 8, 1977, supplemental order would be rescinded and the permanent import fee-exempt authority which had been extended to TARCO in 1970 by the oil import appeals board would be reinstated.)	FXA-1322	Appeal of supplemental order in Texas Asphalt & Refining Co., 5 FEA par. .... (Apr. 8, 1977).
Do.....	Union Oil Co. of California, Los Angeles, Calif. (If granted: Exception relief to permit the Union Oil Co. of California to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products producted at the Adena, Dominguez, and Rio Bravo plants would be extended.)	FXE-4179—FXE-4181	Excension of exception relief granted in Union Oil Co. of California, case Nos. FXE-3677, FXE-3678, FXE-3722 through FXE-3733 (decided Mar. 30, 1977) (unreported decision).
May 17, 1977	Continental Oil Co., Houston, Tex. (If granted: The Continental Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Elk Basin and Kettleman Hills plants.)	FEE-4205 FEE-4206	Price exception (sec. 212.-165).
Do.....	Continental Oil Co., Houston, Tex. (If granted: The exception relief to permit the Continental Oil Co. to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas plants would be extended: Chittim, Medford, Ramsey, Thomas, and O. W. Ward.)	FXE-4207—FXE-4211	Extension of exception relief granted in Continental Oil Co., 5 FEA par. 83,004 (Dec. 20, 1976); Continental Oil Co., 4 FEA par. 83,214 (Dec. 3, 1976).
Do.....	Getty Oil Co., Los Angeles, Calif. (If granted: The exception relief to permit the Getty Oil Co. to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following plants would be extended: Buena Vista Hills, Coeodrie, Cymric, Dollarhide, Katy, Kermit, Kettleman Hills, New Hope, Normanna, Old Ocean, Palacios, South Pecan Lake, Stevens Calidon, Ventura, and West Bernard.)	FXE-4185—FXE-4199	Extension of exception relief granted in Getty Oil Co., case Nos. FXA-1116 through FXA-1141 (decided Apr. 28, 1977) (unreported decision); Getty Oil Co., case Nos. FXE-3700 through FXE-3702 (decided Mar. 18, 1977) (unreported decision); Getty Oil Co., 4 FEA par. 83,216 (Dec. 3, 1976).
Do.....	Hanover Management Co., Dallas, Tex. (If granted: The exception relief approved in the Feb. 18, decision and order which permits Hanover to sell the crude oil which it produces from the Fruin "A" No. 1 well in Payne County, Okla., at upper tier ceiling prices would be extended.)	FXE-4184	Extension of exception relief granted in Hanover Management Co., 5 FEA par. 83,068 (Feb. 18, 1977).
Do.....	Hinton Production Co., Mount Pleasant, Tex. (If granted: Crude oil produced from the J. S. Carroll Lease, Anderson County, Tex., would be sold at prices which exceed the maximum levels specified in the FEA mandatory petroleum price regulations.)	FEE-4183	Price exception (sec. 212.74).
Do.....	Saveway Gas & Appliance, Inc., Dexter, Mo. (If granted: Saveway Gas & Appliance, Inc. would receive an extension of the relief granted in the FEA's Mar. 10, 1977, decision and order and would be assigned on a permanent basis a new, lower-priced supplier of propane to replace its base period supplier, N.G.L. Supply, Inc.)	FXE-4182	Extension of relief granted in Saveway Gas & Appliance, Inc., 5 FEA par. 80,569 (Mar. 10, 1977).
Do.....	Standard Oil Co. of California (Greeley), San Francisco, Calif. (If granted: The exception relief to permit the Standard Oil Co. of California to increase its prices for natural gas liquid products produced at the Greeley plant to reflect nonproduct cost increases in excess of $0.005 per gallon would be extended.)	FXE-4200	Extension of exception relief granted in Standard Oil Co. of California, case No. FXE-3987 decided Apr. 4, 1977) (unreported decision).
Do.....	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The exception relief to permit the Standard Oil Co. (Indiana) to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following plants would be extended: Lake Boeuf, South Jennings, South Thornewell, and TSMA.)	FXE-4201—FXE-4204	Extension of exception relief granted in Standard Oil Co. (Indiana), 5 FEA par. 83,057 (Jan. 25, 1977); Standard Oil Co. (Indiana), 5 FEA par. 83,029 (Dec. 29, 1976).
May 18, 1977	Sanford Fagadau, Dallas, Tex. (If granted: The exception relief to permit Sanford Fagadau to increase his prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Bluegrove and Maryetta plants would be extended.)	FXE-4212 FXE-4213	Extension of relief granted in Sanford Fagadau, case Nos. FXE-3641 and FXE-3644 (decided Mar. 15, 1977) (unreported decision).
Do.....	Gary Western Co., Englewood, Calif. (If granted: Gary would be granted an extension of time in which to file certain data as specified in par. (4) of the FEA's Apr. 25, 1977, stay order.)	FEX-0160	Supplemental to the decision and order in Gary Western Co., 5 FEA par. —— (Apr. 25, 1977).
Do.....	Mobil Oil Corp., New York, N.Y. (If granted: The Mobil Oil Corp would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas plants: Bryans Mill, Hagist, Iowa, Levelland, Putnam Oswego, and Wilcox.)	FEE-4214—FEE-4219	Price exception (sec. 212.-165).

Date	Name and location of applicant	Case No.	Type of submission
Do.	Mobil Oil Corp., New York, N.Y. (If granted: The exception relief to permit the Mobil Oil Corp. to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas processing plants would be extended: Adena, Cotton Valley, Cow Island, Delhi, Elwood, Greeley, Heyser, Gulf-Knox, Postle Hough, South Sarepta, R. M. Stephens, and Vanderbilt.)	FXE-4235—FXE-4246	Extension of exception relief granted in Mobil Oil Corp., 5 FEA par. 83,027 (Dec. 29, 1976); Mobil Oil Corp., 4 FEA par. 83,251 (Dec. 13, 1976).
Do.	Shell Oil Co., Houston, Tex. (If granted: The Shell Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas processing plants: Chalkley, Fashing, Grand Chenier, Seeligson, Timbalier Bay, Tippett/Crossett, and TOCA.)	FEE-4228 FEE-4234	Price exception (sec. 212.165).
Do.	Shell Oil Co., Houston, Tex. (If granted: The exception relief to permit the Shell Oil Co. to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following natural gas processing plants would be extended: Elmwood, Goodwater, Indian Basin, Molino, Norco, Person, West Lake Verret, and Yates.)	FXE-4220—FXE-4227	Extension of exception relief granted in Shell Oil Co., case Nos. FXE-3676, FXE-3780 through FXE-3800 (decided Mar. 21, 1977) (unreported decision); Shell Oil Co., case Nos. FEE-3801; FEE-3803 through FEE-3810 (decided Mar. 11, 1977) (unreported decision); Shell Oil Co., 5 FEA par. 83,656 (Jan. 25, 1977).
May 19, 1977	Cabot Corp., Pampa, Tex. (If granted: The FEA's Apr. 19, 1977, decision and order would be modified to grant additional exception relief to Cabot to permit it to pass through in its prices for natural gas liquids and natural gas liquid products the increased depreciation costs incurred at its Beaver, Estes, North Terrebone, Prentice, and Walton plants.)	FXA-1323—FXA-1327	Appeal of decision and order in Cabot Corp., 5 FEA par. ___ (Apr. 19, 1977).
Do.	Irving Oil Corp., Boston, Mass. (If granted: The Irving Oil Corp. would be permitted to import 3,000,000 barrels of finished petroleum product during the allocation period May 1, 1977 through Apr. 30, 1978, and the same amount of such product for each of the two succeeding allocation periods ending Apr. 30, 1979 and Apr. 30, 1980 on a license fee-free basis.)	FPI-0117	Exception from base fee requirements (pt. 213).

[FR Doc.77-15719 Filed 5-31-77;2:46 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Extension of Comment Period re Notice of Intention to Issue Prohibition Orders to Certain Major Fuel Burning Installations in Alabama, Georgia, Mississippi, Tennessee, Florida, South Carolina and North Carolina

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Monday, May 16, 1977 (42 FR 24900) that FEA had issued a "Notice of Intention to Issue Prohibition Orders to Certain Major Fuel Burning Installations" in Alabama, Georgia, Mississippi, Tennessee, Florida, South Carolina, and North Carolina. The notice stated that all comments concerning this Notice of Intention should be received by FEA by June 14, 1977.

This notice is to inform persons interested in the above-mentioned Notice of Intention that the time period during which FEA will accept written comments concerning the Notice of Intention has been extended to June 17, 1977. All comments received by FEA by 4:30 p.m., June 17, 1977, will be considered by FEA prior to issuance of a Prohibition Order.

Issued in Washington, D.C., May 31, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-15834 Filed 6-1-77;9:58 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Extension of Comment Period re Notice of Intention To Issue Construction Orders to Certain Major Fuel Burning Installations in Alabama, Tennessee, South Carolina, North Carolina, and Kentucky

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Monday, May 16, 1977 (42 FR 24886) that FEA had issued a "Notice of Intention to Issue Construction Orders to Certain Major Fuel Burning Installations" in Alabama, Tennessee, South Carolina, North Carolina and Kentucky. The notice stated that all comments concerning this Notice of Intention should be received by FEA by June 14, 1977.

This notice is to inform persons interested in the above-mentioned Notice of Intention that the time period during which FEA will accept written comments concerning the Notice of Intention has been extended to June 17, 1977. All comments received by FEA by 4:30 p.m., June 17, 1977, will be considered by FEA prior to issuance of a Prohibition Order.

Issued in Washington, D.C., May 31, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-15832 Filed 6-1-77;9:57 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Extension of Comment Period re Notice of Intention To Issue Construction Orders to Certain Major Fuel Burning Installations in California

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Tuesday, May 17, 1977 (42 FR 25452) that FEA had issued a "Notice of Intention to Issue Construction Orders to Certain Major Fuel Burning Installations" in California. The notice stated that all comments concerning this Notice of Intention should be received by FEA by June 14, 1977.

This notice is to inform persons interested in the above-mentioned Notice of Intention that the time period during which FEA will accept written comments concerning the Notice of Intention has been extended to June 20, 1977. All comments received by FEA by 4:30 p.m., June 20, 1977, will be considered by FEA prior to issuance of a Prohibition Order.

Issued in Washington, D.C., May 31, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-15486 Filed 6-1-77;9:57 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Extension of Comment Period re Notice of Intention to Issue Construction Orders to Certain Major Fuel Burning Installations in Pennsylvania and Virginia

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Tuesday, May 17, 1977 (42 FR 25446) that FEA had issued a "Notice of Intention to Issue Construction Orders to Certain Major Fuel Burning Installations" in Pennsylvania and Virginia. The notice stated that all comments concerning this Notice of Intention should be received by FEA by June 14, 1977.

This notice is to inform persons interested in the above-mentioned Notice of Intention that the time period during which FEA will accept written comments concerning the Notice of Intention has been extended to June 20, 1977. All comments received by FEA by 4:30 p.m., June 20, 1977, will be considered by FEA prior to issuance of a Prohibition Order.

Issued in Washington, D.C. May 31, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-15833 Filed 6-1-77;9:57 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Extension of Comment Period and Change in Schedule for Public Hearing re Notice of Intention to Issue Prohibition Orders to Certain Major Fuel Burning Installations in Virginia, Delaware, West Virginia, and Pennsylvania

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Wednesday, May 18, 1977 (42 FR 25622) that FEA has issued a "Notice of Intention to Issue Prohibition Orders to Certain Major Fuel Burning Installations" in Virginia, Delaware, West Virginia, and Pennsylvania and would hold a hearing on the Notice of Intention on June 1, 2, and 3, 1977, in Philadelphia, Pennsylvania. The notice also stated that all comments on the Notice of Intention should be received by FEA by June 14, 1977.

This notice is to inform persons interested in that Notice of Intention that additional hearing days have been scheduled for June 9 and 10, 1977, in Richmond, Virginia, beginning at 9:00 a.m. These additional hearing days are intended to provide an opportunity for interested persons who did not appear at the hearings in Philadelphia to present their data, views and arguments concerning the Notice of Intention.

Consequently the revised schedule for public hearings on the above-mentioned Notice of Intention is as follows:

June 1, 2, 3—Philadelphia, Pennsylvania, Federal Building, Conference Room 11B, 1421 Cherry Street at 9:00 a.m.

June 9, 10—Richmond, Virginia, The John Marshall Hotel, 5th and Franklin Streets, at 9:00 a.m.

This notice also is to inform persons interested in the above-mentioned Notice of Intention that the time period during which FEA will accept comments on the Notice of Intention has been extended to June 20, 1977. All comments received by FEA by 4:30 p.m., June 20, 1977 will be considered by FEA prior to issuance of a Prohibition Order.

Issued in Washington, D.C., May 31, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-15485 Filed 6-1-77;9:57 am]

FEDERAL MARITIME COMMISSION

[Docket No. 77-5 Agreement Nos. 9973-3 and 9863]

POSTPONEMENT OF PROCEDURAL DATES

On March 31, 1977 the Commission instituted this proceeding in order to determine whether Article 1 of Agreement No. 9973 and Article 1 of Agreement No. 9863, whereby the parties to those Agreements would have separate votes in conferences and other agreements to which they may be party, should be disapproved or modified pursuant to section 15 of the Shipping Act, 1916. Pursuant to a petition by Proponents to modify the Order of Investigation and Hearing, the Commission, on May 2, 1977, modified the March 31, 1977 Order of Investigation and Hearing so as to alter the dates upon which, and the order in which, the parties to this proceeding would file affidavits and memoranda of law. On May 12, 1977 Proponents, Protestants, and Hearing Counsel filed a "Joint Motion for Modification of Procedural Events and Dates," whereby the presently established dates would be delayed two months, in each event. On May 18, 1977, Proponents moved the Commission to issued an order declaring that discovery is not available in this proceeding, and moved the Commission to stay discovery until 15 days after the Commission's decision on the motion for declaratory order.

In order to permit the Commission to consider and determine the questions presented in those three motions, and in order to avoid undue disruption of this proceeding pending the determination of those questions, the Commission shall postpone all of the dates upon which requests for a trial type hearing, affidavits, and memoranda must be filed, as established by the Commission's Order of Investigation and Hearing herein, as modified by the Commission's Order of May 2, 1977, until further order of the Commission.

This Order shall not be construed as granting or denying any of the motions in this proceeding now pending before the Commission. The parties to this proceeding shall take notice that the events herein postponed may be resumed by the Commission upon short notice to the parties.

Therefore, it is ordered, That the dates upon which a request for a trial type hearing, affidavits, and memoranda must be filed with the Commission in this proceeding, established by the Order of Investigation and Hearing herein, as modified by the Commission's Order of May 2, 1977, are postponed until further order of the Commission. By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-15894 Filed 6-3-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI77-33]

CLAY J. CALHOUN

Order Granting Special Relief and Permitting Intervention

MAY 27, 1977.

On February 8, 1977, Clay J. Calhoun (Calhoun), filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. § 2.76) for the sale of natural gas to United Gas Pipe Line Company (United) from the Learned Field, Hinds County, Mississippi. Calhoun is making this sale pursuant to a contract dated July 31, 1970, under its small producer certificate issued in Docket No. CS72-194. Calhoun is currently collecting 36.3671 cents per Mcf for the subject gas.

Calhoun states that pursuant to a contract amendment dated August 1, 1974, he received payment from United in the adjusted amount of 67.7188 cents per Mcf commencing August 28, 1975. This amount was reduced to the current rate effective July 27, 1976, pursuant to Order No. 553, as amended. Calhoun now requests an increase to a rate of 67.7188 cents per Mcf. Calhoun states that the proposed rate will enable him to rework two wells and install a rental compressor in order to recover the remaining reserves in the Learned Field. Calhoun requests that the proposed rate be made effective for all gas delivered to United from the Learned Field from and after July 27, 1976.

Notice of the Petition was issued on March 1, 1977. On March 24, 1977, United led a petition to intervene stating that it supports Calhoun's petition for special relief.

Based on its analysis of data submitted by Calhoun, Staff estimates that 1,620,341 Mcf remain to be produced over a period of four and a half years, and concludes that the requested special relief rate is warranted.[1] After a careful review of the costs to be incurred and the reserves to be recovered, we conclude that it is in the public interest to grant Calhoun special relief. However, we shall deny Calhoun's request for an effective date of July 27, 1976. In Opinion No. 749, which applies to the subject sales, the Commission provided that special relief rate increases would only be granted prospectively.[2] Calhoun has not shown good cause for waiver of this requirement.

The Commission orders: (A) The petition for special relief of Calhoun is hereby granted.

(B) Calhoun is authorized to collect a total rate of 67.7188 cents per Mcf at 15.025 psia for gas sold to United from the Learned Field, Hinds County, Mississippi, effective on the date of issuance of this order or on the date of completion of the proposed work, whichever is later. This authorization is contingent upon Calhoun's filing within 30 days of the effective date set forth above a statement, signed by United, that the proposed work has been performed to United's satisfaction.

(C) The special rate authorized in Ordering Paragraph (B) shall not become effective as provided therein unless Calhoun files within 30 days of the issuance of this order a contractual amendment authorizing the rate granted herein and a notice of change in rate providing for such special rate.

(D) United is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission, *Provided, however*, That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further*,

[1] See Appendix A attached hereto.
[2] Section 2.56b(h) of the Regulations.

That the admission of United in the manner provided shall not be construed as recognition by the Commission that United might be aggrieved because of any order or orders entered in this proceeding, and that United agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

CLAY J. CALHOUN
[Docket No. R177-33]

Unit Cost of Gas

Line No.	Item	Amount
	(a)	(b)
1	Net working interest volumes:	
2	Gas, 1,000 ft³ at 15.025/lin²a [1]	1,280,069
3	Liquids	0
4	Cost of production:	
5	Return on rate base at 15 pct [2]	$80,061
6	D.D. & A [3]	301,398
7	Production expense [4]	470,210
8	Regulatory expense [5]	1,280
9	Maintenance tax	648
10	Total cost of production	853,597
11	Unit cost of gas:	
12	Cost of production [6]	$0.6678
13	Mississippi severance tax	.0455
14	Total unit cost of gas	.7133

[1] 1,620,341/1,000 ft³ times 0.79 net working interest.
[2] Line 12 of sheet 3 times 0.15 times 4.5 yr productive life.
[3] From line 6 of sheet 2.
[4] Estimated yearly production expense of $45,200 escalated 5 pct per year.
[5] 0.1¢ per 1,000 ft³.
[6] Line 10 divided by line 2.
[7] Severance tax at 6.383 pct.

Investment

Line No.	Item	Amount
	(a)	(b)
1	Investment:	
2	Remaining net book value	$10,398
3	Proposed investment	291,000
4	Total investment	301,398
5	Less salvage	0
6	Depreciable investment	301,398
7	Depreciation per unit of production [1]	0.235454

[1] Line 6 divided by 1,280,069 1,000 ft³.

Line No.	Year	Annual N.W.I. production (1,000 ft³)	Beginning of year investment	Depreciation [1]	End of year investment	Average investment [2]
	(a)	(b)	(c)	(d)	(e)	(f)
1	Average investment:					
2	1977 [3]	293,698	$301,398	$89,153	$232,245	$133,411
3	1978	425,339	232,245	100,147	132,098	182,172
4	1979	274,346	132,098	64,596	67,502	99,800
5	1980	176,976	67,502	41,670	25,832	46,667
6	1981	109,713	25,832	25,832	0	12,916
7	Total	1,280,069		301,398		474,966
8	Average net investment [4]					105,548
9	Annual rate base:					
10	Average annual investment					105,548
11	Average annual working capital allowance [5]					13,061
12	Total annual rate base					118,609

[1] Col. (b) times line 7 sheet 2.
[2] (Col. (c) plus col. (e)) divided by 2.
[3] One-half year.
[4] Line 7 divided by 4.5 yr of productive life.
[5] 0.125 times line 7 of sheet 1 divided by productive life of 4.5 yr.

[FR Doc.77-15781 Filed 6-3-77;8:45 am]

[Docket No. CS66-72, et al.]

RESERVE OIL AND GAS CO.

Applications for "Small Producer" Certificates [1]

MAY 26, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 24, 1977, file with the Federal Power 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 Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will 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 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 otherwise advised, it will be unnecessary for Applicants to appear or 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 No.	Date Filed	Applicant
CS66-72	May 17, 1977	Reserve Oil and Gas Co.,[1] P.O. Box 5568, Denver, Colo. 80217.
CS77-544	May 16, 1977	Tom P. Stephens, P.O. Box 698, Roswell, N. Mex. 88201.
CS77-545	do	James P. Coyle, 3629 Mormon St., Omaha, Nebr. 68112.
CS77-546	May 18, 1977	The First National Bank of Fort Worth, independent executor of the estate of Iris E. Tollett, Box 2546, Fort Worth, Tex. 76102.
CS77-547	do	The First National Bank of Fort Worth, trustee U/W of Raymond Lee Tollett.
CS77-548	do	The First National Bank of Fort Worth, trustee of H. R. Clay, deceased, f/b/o James A. Clay, Jr., et al.
CS77-549	do	The First National Bank of Fort Worth, trustee U/W of H. R. Clay, deceased, f/b/o H. R. Clay III.
CS77-550	do	The First National Bank of Fort Worth, cotrustees U/W of J. B. Tubb.
CS77-551	do	The First National Bank of Fort Worth, successor co-trustee U/W of Doris Smith Penrose.
CS77-552	do	The First National Bank of Fort Worth, trustee for Tom R. Norris, Jr., Trust.
CS77-553	do	The First National Bank of Fort Worth, trustee for Jean Waggoner, Trust.
CS77-554	do	The First National Bank of Fort Worth, trustee U/W of Alice Walker, deceased, f/b/o Jack M. Buckler, Trust.
CS77-555	do	The First National Bank of Fort Worth, trustee U/W of L. K. Ory, deceased.
CS77-556	do	The First National Bank of Fort Worth, trustee for Walker-Buckler, Trust.
CS77-557	do	The First National Bank of Fort Worth, Trustee for Anne Windfohr Phillips.
CS77-558	do	The First National Bank of Fort Worth, agent for Vivienne Hanger Wilson.
CS77-559	May 20, 1977	Betty Adkins, 1285 Albion, Apartment 107, Denver, Colo. 80220.

[1] Being renoticed to reflect amendment. Reserve Oil, Inc. was incorporated as a wholly owned subsidiary of Reserve Oil and Gas Co. on Aug. 11, 1975, and Basin Petroleum Corp. was merged into Reserve Oil Inc. on Mar. 31, 1976. As part of a corporate reorganization, all of the oil and gas properties owned by Reserve Oil and Gas Co. in the United States were conveyed to Reserve Oil, Inc. on Jan. 1, 1977.

[FR Doc.77-15780 Filed 6-3-77;8:45 am]

[Docket No. G-11292, et al.]

UNION OIL CO. OF CALIFORNIA

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 26, 1977.

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.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance wtih 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 Power 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 otherwise 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 No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-11292 D 5-19-77	Union Oil Co. of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Panhandle Eastern Pipe Line Co. (Bernstein area, Hansford County, Tex.).	(2)	
CI63-489 D 5-12-77	Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co. (Byfield No. 2-25 Well, sec. 25-T22N-R-14W, Major, County, Okla.).	(2)	
CI66-738 D 5-19-77	Union Oil Co. of California	Northern Natural Gas Co. (Denison Field, Sutton County, Tex.).	(2)	
CI72-440 C 5-19-77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co. (certain acreage in Weld, Arapahoe, and Adams Counties, Colo.).	[3] $1.45	14.73
CI72-440 C 5-19-77	Amoco Production Co.	do	[3] $1.45	14.73
CI74-567 C 5-16-77	Chevron U.S.A. Inc., 111 Tulane Ave., New Orleans, La. 70112.	Natural Gas Pipe Line Co. of America (West Cameron Block 145, offshore Louisiana).	[3] $1.45	14.73
CI75-49 C 5-17-77	CNG Producing Co., 445 West Main St., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp. (East Cameron Block 118 Field, offshore Louisiana).	[3] [4] $1.6841	15.025
CI75-395 C 5-16-77	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp. (South Ewing Field, San Patricio County, Tex.).	[3] 94.0¢	14.73
CI77-114 C 5-16-77	Texas Pacific Oil Co., Inc., 1700 One Main Pl., Dallas, Tex. 75250.	El Paso Natural Gas Co. (Jalmat (Yates-Seven Rivers) Field, Lea County, N. Mex.).	[3] $1.45	14.73
CI77-486 B 5-13-77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp. (Eugene Island Block 314 Field, offshore Louisiana).	(5)	
CI77-487 A 5-16-77	Southland Royalty Co., 1600 First National Bldg., Fort Worth, Tex. 76102.	Panhandle Eastern Pipeline Co. (township 19 north Range 91 west, Carbon County, Wyo.).	[6] 144.2124¢	14.65
CI77-488 A 5-13-77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co. (Blocks 243, 249, and 250 South Marsh Island area, offshore Louisiana).	[3] $2.00	15.025
CI77-489 A 5-13-77	Southern Union Supply Co., 1800 First International Bldg., Dallas, Tex. 75270.	El Paso Natural Gas Co. (Gavilan P.C. Field, Rio Arriba County, N. Mex.).	[3] 38.0838¢	14.73
CI77-490 A 5-16-77	Union Oil Co. of California	Columbia Gas Transmission Corp. (Block 594, West Cameron area, offshore Louisiana).	[3] 190.00¢	15.025
CI77-491	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	El Paso Gas Co. (Gunnx Field, Reagan County, Tex.).	[3] $1.45	14.73
CI77-492 A 5-16-77	Union Oil Co. of California	Texas Eastern Transmission Corp. (Block 503, West Cameron area, offshore Louisiana).	[3] 190.0000¢	15.025
CI77-493 A 5-16-77	Exxon Corp.	Columbia Gas Transmission Corp. (Grand Isle Block 16 Field, offshore Louisiana).	[3] 178.0¢	15.025
CI77-494 (CI70-711) B 5-17-77	Petroleum Corp. of Texas (operator), et al., P.O. Box 911, Breckenridge, Tex. 76024.	Coastal States Gas Producing Co. (Brownlee Field, Jim Wells County, Tex.	(7)	
CI77-495 A 5-17-77	Florida Gas Exploration Co., P.O. Box 44, Winter Park, Fla. 32790.	Florida Gas Transmission Co. (Calhoun Field, Jones County, Miss.).	[3] [4] 124.5680¢	15.025
CI77-496 A 5-17-77	Florida Gas Exploration Co	Florida Gas Transmission Co. (Musgrove Well, Calhoun Field area, Jones County, Miss.).	[3] [4] 191.1985¢	15.025
CI77-497 A 5-19-77	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Tennessee Gas Pipeline Co. (Block 31, South Timbalier area, offshore Louisiana).	[3] $1.45	14.73

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
C77-498 ..... B 5-19-77	Kedco Management Corp., 816 Union Center Bldg., Wichita, Kans. 67202.	Trunkline Gas Co. (North Bird Island Field, Nueces and Kleberg Counties, Tex.).	(3)	.....
C77-499 ..... B 5-19-77	Gas Systems, Inc., 1308 Continental National Bank Bldg., Fort Worth, Tex. 76102.	Lone Star Gas Co. (Hassell-Strawn Field, Clay and Archer Counties, Tex.).	(4)	.....
C77-501 ..... A 5-19-77	Michigan Wisconsin Pipe Line Co., 1 Woodward Ave., Detroit, Mich. 48226.	Northern Natural Gas Co. (Texas County, Okla.).	1 94¢	14.65
C77-504 ..... B 5-20-77	Exxon Corp.	Lone Star Gas Co. (Golden Trend Field, Garvin and Stephens Counties, Okla.).	(10)	.....
C77-505 ..... B 5-20-77	do.	Lone Star Gas Co. (Katie Field, Garvin County, Okla.).	(11)	.....
C77-506 ..... B 5-20-77	do.	Arkansas Louisiana Gas Co. (Waskom Field, Harrison County, Tex.).	(12)	.....

1 Wells have been plugged and abandoned.
2 Uneconomical.
3 A discrepancy in leasehold identification dedicated to contract.
4 Applicant proposes to collect the applicable national rate as prescribed in opinion No. 770-A, subject to adjustments contained therein.
5 Applicant and purchaser are affiliated.
6 Fulfillment of contract.
7 Depletion of reserves, well plugged.
8 Depletion of reserves.
9 Sale going intrastate.
10 Leases have been released.
11 Leases have expired.
12 Contract expired.

[FR Doc.77-15782 Filed 6-3-77;8:45 am]

GAS POLICY ADVISORY COUNCIL, CONSERVATION—TECHNICAL ADVISORY TASK FORCE—EFFICACY IN USE OF GAS

Agenda of Final Meeting

Place: Conference Room 5200, Federal Power Commission, Union Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Date and time: July 14, 1977—9:30 a.m.

Presiding: Mr. James R. Kirby, Coordinating Representative and Secretary, Federal Power Commission.

1. Call to Order and Introductory Remarks: Mr. James R. Kirby.
2. Discussion of Task Force Progress to Date: Mr. James Woodruff and Mr. John A. Irwin.
3. Final mark up of Task Force Report.
4. Adjournment: Mr. James Kirby.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15872 Filed 6-3-77;8:45 am]

[Docket No. RM74-16]

NATURAL GAS COMPANIES ANNUAL REPORT OF PROVED DOMESTIC NATURAL GAS RESERVES FPC FORM NO. 40

Order Granting Intervention

MAY 31, 1977.

Senators Hubert Humphrey, John Durkin, and James Abourezk and Representatives Herbert Harris, Andrew Maguire and John Moss (Congressmen) on April 21, 1977, filed a petition for late intervention and comments in the above-entitled proceeding. This proceeding relates to the issuance of Form 40 which requires the filing of data on gas reserves and is before the Commission upon remand from the United States Court of Appeals for the Ninth Circuit in *Union Oil Company of California, et al.* v. *F.P.C.*, Nos. 75-2891 et al., 542 F. 2d 1036 (CA9-1976).

Congressmen are members of the United States Senate or the United States House of Representatives. As such they state they have a common and specific interest in the enforcement of the law by administrative agencies. As citizens and consumers of energy, they state they have common interests in the development of the public intelligence that is necessary to the performance of public regulatory and planning functions. They also state they were not a party to the earlier stages of this proceeding and did not receive notice of its reopening until after the seven-day deadline for intervention provided in the Commission's order of February 2, 1977.

The Commission further finds: (1) The participation of Congressmen is in the public interest.

(2) Good cause exists for permitting the late intervention under the provisions of Section 1.8(d) of the Commission's Rules.

The Commission orders: Congressmen are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene, and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding, and that they agree to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15895 Filed 6-3-77;8:45 am]

[Opinion No. 801; Docket Nos. RP74-48 and RP75-3]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Opinion and Order Affirming in Part and Reversing Initial Decision on Reserved Issues and Establishing Just and Reasonable Pipeline Rates

MAY 31, 1977.

Thomas F. Ryan, Jr. and Robert G. Hardy for Transcontinental Gas Pipe Line Corporation.

Richard A. Solomon and Peter H. Schiff for the Public Service Commission of the State of New York.

George L. Weber, Charles R. Brown, Norman A. Flanigam, David E. Weatherwax, Phillip L. Jones, and Henry P. Sullivan for Consolidated Gas Supply Corporation.

Joseph P. Stevens and Barbara M. Gunther for the Brooklyn Union Gas Company.

Edward S. Kirby, William R. Duff, James R. Lacey, Richard Fryling, Jr., and Harold W. Borden for Public Service Electric and Gas Company.

Daniel L. Bell, Jr., Giles H. Snyder, and William P. Saviers, Jr. for Columbia Gas Transmission Corporation.

Gregory Grady, Dale A. Wright, and Melvin Richter for Piedmont Natural Gas Co., Inc.

Susan A. Low for the Washington Gas Light Company.

William I. Harkaway, G. Douglas Essy, and Garrett E. Austin for Consolidated Edison Company of New York, Inc.

John E. Holtzinger, Jr., Arthur E. Gowran, Paul H. Keck, and Steven Angle for Atlanta Gas Light Company.

Reuben Goldber for the Pennsylvania Gas & Water Co.

Daryal A. Myse for the Georgia Municipal Association.

Robert G. Simon for Carolina Pipeline Company.

Eugene R. Elrod for the Staff of the Federal Power Commission.

This proceeding arises under Section 4 of the Natural Gas Act and concerns the justness, reasonableness, and lawfulness of increased rates and charges proposed by Transcontinental Gas Pipe Line Corporation.

PROCEDURAL HISTORY

On December 17, 1973, Transcontinental Gas Pipeline Corporation (Transco) in Docket No. RP74-48 tendered proposed revisions in its FPC Gas Tariff which would have increased its revenues from jurisdictional sales by approximately $51,300,000 annually. The Commission accepted these revisions for filing by order of January 31, 1974, suspended the proposed rates for five months to become effective subject to refund on July 1, 1974, and set the matter for hearing.

Soon after the proposed rates in RP74-48 became effective but before the hearing in that docket Transco on July 16, 1974, in Docket No. RP75-3 tendered further proposed revisions to its FPC Gas Tariff which would have increased its revenues from jurisdictional sales by approximately another $48,600,000 annually. By order of August 30, 1974, the Commission accepted these further revisions for filing, suspended the proposed rates for five months to become effective subject to refund on February 1, 1975, set the matter for hearing, and consolidated Docket Nos. RP74-48 and RP 75-3.

Following the submittal of prepared testimony and exhibits by the several parties to these consolidated dockets and extensive negotiations a prehearing conference was convened before Administrative Law Judge Issac D. Benkin at which time Transco offered a proposed settlement of all issues in RP74–48 and all but three issues in RP75–3, these issues to be reserved for subsequent adjudication. The Administrative Law Judge certified this proposed settlement and related evidence to the Commission on May 16, 1975. By order of November 13, 1975, the Commission approved this settlement subject to several modifications.

In the interim between certification of the proposed settlement and Commission approval thereof hearings were held from July 29 to 31, 1975, on the three reserved issues presently at issue, these issues being the treatment of unsuccessful expenditures for alternate gas supplies, treatment of certain advance payments, and rate design. Subsequently on December 22, 1975, the Administrative Law Judge issued his initial decision on the reserved issues. Briefs on exceptions were then filed by Transco, Staff and Brooklyn Union Gas Company (Brooklyn), which also moves for oral argument and expedited decision. Briefs opposing these exceptions were filed by Transco, Staff, Brooklyn, Consolidated Edison Company of New York, Inc. (Con-Ed), Public Service Commission of New York State (New York), and Columbia Gas Transmission Corporation; and Consolidated Gas Supply Corporation (Columbia and Consolidated).

RP75–3, like RP74–48, covers a locked-in period because of a superseding filing: On March 14, 1975, Transco tendered proposed tariff revisions in RP75–75, which the Commission by order of April 30, 1975, accepted for filing, suspended for five months to become effective subject to refund on October 1, 1975. The proposed tariff revisions would constitute a jurisdictional rate increase of approximately $39,500,000 annually. RP75–75 was resolved by a settlement agreement which the Commission accepted by order of January 30, 1976.

Summary

We affirm the initial decision to the extent that it rejected rate base and cost of service treatment for unsuccessful SNG project expenditures. We reverse the initial decision, however, to the extent that certain advance payments were excluded from rate base and the Seaboard rate design was reestablished.

Discussion

I. Expenditures for unsuccessful alternate gas supply projects

Transco had expended a total of $22,309,402 in four unsuccessful projects to manufacture synthetic natural gas (SNG),[1] and in RP75–3 it attempted to include this amount in rate base (since related accumulated deferred income taxes were first deducted, only $12,161,119 was to go into rate base) and to amortize the entire amount over five years, recovering this in the cost of service as operation and maintenance expenses.

The Administrative Law Judge rejected Transco's rate base and cost of service treatment of this $22,309,402 of unsuccessful SNG project expenditures. In reading Commission precedent concerning treatment of an unsuccessful LNG project[2] he found that Transco's jurisdictional ratepayers should not bear the costs of these unsuccessful SNG projects because Transco failed to obtain advance Commission approval for these projects. He did not base this rejection upon the mere fact that the projects were unsuccessful, as well as nonjurisdictional. While he noted that the nonjurisdictional initial status of SNG facilities relieved Transco of the duty to seek prior approval, he concluded that the ratepayer should be protected by the Commission from such risky investment decisions unless the Commission has first had an opportunity to assess the project. He also noted in passing that the four unsuccessful SNG projects at issue could not be characterized as research and development, a characterization which according to him would have improved Transco's chances to amortize these costs despite the lack of advance approval.

In excepting to this finding Transco first of all attempts to distinguish Tennessee, supra note 1, (the LNG project therein required certification, refusal to permit recovery of its costs was a certificate condition which the pipeline had accepted, the LNG project was not research and development, and it was to serve only a few customers) and secondly relies upon prior Commission precedent[3] for the proposition that the cost of unsuccessful projects to improve system-wide service, such as the four herein, should be recovered. Transco moreover attacks the "advance approval" test as unworkable since large preliminary expenditures are needed before a project is even ready to be presented to the Commission for advance approval and also as discouraging the pipeline initative needed to solve the gas shortage. Transco concludes that it should be permitted the proposed rate base and cost of service treatment because these SNG project expenses were prudently incurred and were intended for the benefit of its entire system.

While Staff supports the result reached in the initial decision, it excepts to the underlying rationale, to-wit, the "advance approval" test. It argues that, since the Commission normally reserves approval of project cost flow-through until the resulting benefits are available to the jurisdictional customers, advance presentation of these SNG projects would most likely be met by deferral, not approval. Staff reads Tennessee, supra note 1, 48 FPC at 156 to preclude recovery of the costs of any unsuccessful non-research and development project; however, Staff would argue for rate base and cost-of-service treatment upon a showing of extraordinary circumstances, which allegedly was not made herein.

In opposing Staff's position Transco first of all reiterates the uncontroverted prudency of its expenditures, secondly assails the validity of the standard that all unsuccessful projects be excluded except under extraordinary circumstances, and finally, asserts that in any event extraordinary circumstances exist, to-wit: the Arab oil embargo.

New York supports the "advance approval" test enunciated in the initial decision, but it would limit such a standard to prospective application only in light of its recent formulation. It would, however, continue to support rejection of Transco's rate base and cost of service treatment of the unsuccessful SNG project expenditures because the unavailability of feedstock would have precluded any form of Commission approval and no extraordinary circumstances were demonstrated.

We find that Transco's proposed rate base and cost of service treatment of the unsuccessful SNG project expenditures should be rejected, and accordingly the result reached in the initial decision should be affirmed although different supporting rationale is presented.

It should first of all be pointed out that Transco's four SNG projects, supra note 1, did not constitute "research and development", which, pursuant to *Tennessee*, supra note 2, 48 FPC at 158, would have justified both rate base and cost of service treatment so long as the pipeline sought and obtained prior Commission approval. Neither the record nor Transco's arguments on brief in any way indicate that these expenditures should be classified as "research and development." Moreover, even if it had met its burden of proof in this regard, Transco would still fail for it did not inform the Commission in advance of the experimental nature of the projects: The Commission should not shift the risk of failure of research and development projects to the ratepayers unless it is first

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[1] (1) $10,103,978 was spent on a study and land and right-of-way costs for a project to produce SNG from crude oil. The project was abandoned due to the high price of and the inability to secure long-term commitments for crude oil. (2) $9,860,710 was spent on a study for a project to produce SNG initially from Naphtha and later from Iranian natural gas liquids. This project was abandoned because of the unavailability of a firm feedstock supply. (3) $1,423,314 was spent on a study to convert foreign natural gas to methanol for transportation purposes, the methanol to be reconverted to gas after receipt by Transco. This project was abandoned by Iran which refused to proceed. (4) $921,400 was spent to obtain the option to reserves of coals to be converted to SNG. This project was abandoned as infeasible.

[2] *Tennessee Gas Pipeline Company*, Opinion No. 624, 48 FPC 149 (1972), aff'd *Tennessee Gas Pipeline Company* v. *F.P.C.*, 487 F. 2d 1189 (D.C. Cir. 1973).

[3] *Midwestern Gas Transmission Company*, Opinion No. 444, 32 FPC 993 (1964); and *Southern Natural Gas Company*, Opinion No. 379, 29 FPC 323 (1963).

"given an opportunity to determine whether such expenditures were appropriate and in the public interest to possibly increase the natural gas supply."

Secondly, the obvious fact that these projects were unsuccessful removes them from that general precept that the costs of exotic supplies, whether SNG or LNG, are recouped along with a fair rate of return through the pipelines sales of such supplies at a fixed certificated rate, whether rolled-in or incrementally priced.[4]

The four unsuccessful SNG projects themselves were clearly nonjurisdictional,[5] but that fact alone is not dispositive. In that SNG projects are nonjurisdictional, the pipeline has the option to either sell the production in intrastate commerce so as to totally avoid Commission regulation or to obtain Commission certification of the transportation and/or sale of the SNG in interstate commerce. The potential for abuse by the pipeline is apparent under Transco's position: If the project is a success, it can choose to sell the SNG in intrastate commerce, but, if the project fails and produces no SNG, the pipeline merely includes the expenditures in rate base and amortizes them through the cost of service. No protection has been afforded the jurisdictional ratepayer under this scenario.

The Administrative Law Judge recognized this problem and attempted to remedy it by instituting his "advance approval" test. His reliance upon *Tennessee*, however, is not completely warranted. The Commission therein granted conditional approval to the LNG facility because it was jurisdictional, thereby necessitating a Section 7 certification proceeding. While advance certification of any SNG project is both advisable and common, the resulting certificate would never provide for recovery of expenditures if the SNG project failed.[6] In Opinion No. 728 the Commission categorically refused to approve a "full cost of service tariff" whereby the pipeline would be guaranted the recovery of all of its project costs over twenty-five years even if an Mcf of SNG was never produced. The Commission established an initial rate, subject to certain later adjustments, through which all reasonable and prudent costs would be recouped, if at all, through the sale of SNG at certain estimated levels. In the instant proceeding Transco's proposal is sufficiently analogous to Transwestern's proposed full cost of service tariff to require rejection for the same reason.

Although we support further SNG development, the jurisdictional ratepayer should not bear the full risk. As in the case of Transwestern, the Commission has demonstrated a sensitivity for the vagaries of inflation.[7] Production of SNG by the pipeline is analogous to the production of natural gas by independent producers, however, and the same shareholder risk should apply.

On July 2, 1976, Transco filed with the Commission a unilateral offer of settlement of the unsuccessful SNG project expenditures issue and an attached motion for approval of that settlement. While we reject this settlement on the merits for the reasons stated hereinafter, we also express our disapproval of the settlement for a very compelling procedural and administrative reason; that is, the benefits of economy and expedition arising from Commission acceptance of proposals for settlement of adjudicatory proceedings are nonexistent in the present context. Specifically, the parties to both RP74–48 and RP75–3 previously agreed upon a settlement of most of the issues therein, but they could not agree upon the three reserved issues herein. This resulted in a hearing, initial and reply briefs, issuance of an initial decision, briefs on exceptions and briefs opposing exceptions, and finally Commission resolution of the issues. We see no benefits accruing to the public interest from considering this unilateral settlement which of course would require our pretending that a full year of hearings, briefs, initial decision and Commission analysis never occurred.

In any event Transco's unilateral settlement offer should be denied on the merits. This offer of settlement was noticed on July 30, 1976, and comments were thereafter filed by Staff, Brooklyn, and New York. Brooklyn and New York support the offer of settlement.

Transco's offer of settlement consists of the removal from cost of service of all costs ($9,860,710) of its naphtha gasification project, along with the removal from rate base of its other three unsuccessful SNG projects, supra note 1. Essentially under the settlement Transco would only be allowed to recover through cost of service the amortized portion of the three remaining unsuccessful SNG projects. Transco alleges that the settlement would reduce its previously proposed $6,977,140 annual cost of service recovery for the SNG project costs to $2,870,343.

Although we do not necessarily feel that, in light of the particular circumstances surrounding this "eleventh hour" offer of settlement, the Court ruling in *Michigan Consolidated Gas Company* v. *FPC*, 283 F.2d 204 (D.C. Cir. 1960), *cert. denied, sub nom, Panhandle Eastern Pipe Line Company* v. *Michigan Consolidated Gas Company*, 364 U.S. 913 (1960) compels us to consider this offer of settlement on the merits, we shall nonetheless do so. We have already found as a matter of law and policy supra, that the full unsuccessful SNG project study costs should be excluded both from rate base and cost of service recovery. Transco now seeks only cost of service recovery for three of the four projects. Although the cost to the consumer would obviously be less than under its original and fully litigated proposal, it would nevertheless be more than what we have already determined to be the proper treatment, which is no recovery. The reduced amount of the request does not obviate our prior finding which applies equally to all four projects and to both rate base inclusion and cost of service recovery.

II. RATE DESIGN

Transco had previously designed its two-part demand-commodity rate under the 50–50 *Seaboard*[8] formula by which 50 percent of fixed costs are assigned to the demand charge and the other 50 percent of fixed transmission and storage costs, as well as all variable costs, are assigned to the commodity charge. Its proposed rates in RP74–48 and RP75–3 were designed, however, under the 25–75 *United*[9] formula by which only 25 percent of fixed transmission and storage costs are assigned to the demand charge and the other 75 percent of fixed costs and all variable costs are assigned to the commodity charge. Nevertheless Transco sought reversion to *Seaboard* rate design throughout the hearing and on brief. Only Staff supported rate design based upon the 25–75 *United* formula. Under the settlement agreement in RP74–48 and RP75–3, as well as a subsequent settlement agreement in RP75–75, the rate design issue is to have prospective effect only from the date of the final order herein.

The Administrative Law Judge ordered that Transco redesign its jurisdictional rates according to the *Seaboard* method. In rejecting Staff's insistence upon the 25–75 *United* rate design formula he first of all found that a prime Commission objective in *United*, to discourage the low priority industrial use of gas, cannot be achieved on the Transco system since Transco has only one direct industrial customer (he ignored indirect industrial customers behind Transco's distributor customers because of an absence of Commission jurisdiction over them). He moreover rejected the *United* formula because he found that it would discourage distributor investment in peak-shaving facilities (storage, SNG, LNG) used to improve load factor for under *United* more fixed costs are shifted from low to high load factor customers. He then reinforced his conclusion by finding that the shift of fixed costs from the demand to commodity charge would increase Transco's risk of undercollection of fixed costs,

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[4] *Columbia LNG Corporation, et al.*, Opinion No. 622, 47 FPC 1624 (1972); *Algonquin LNG, Inc. et al.*, Opinion No. 637, 48 FPC 1216 (1972).

[5] *El Paso Natural Gas Company, et al.*, Opinion No. 663, 50 FPC 651 (1973); *aff'd sub nom, Alice Henry, et al.* v. *FPC*, Nos. 73–2090, *et al.* (July 28, 1975, D.C. Cir.).

[6] *Transwestern Coal Gasification Company*, Opinion No. 728, Docket No. CP73–211, issued April 21, 1975 (slip op. at 16–17).

[7] *Transwestern Coal Gasification Company, et al.*, Opinion No. 728–A, Docket No. CP73–211, issued November 21, 1975.

[8] *Atlantic Seaboard Corporation*, Opinion No. 225, 11 FPC (1952).

[9] *United Gas Pipeline Company*, Opinion No. 671, 50 FPC 1348 (1973), *aff'd sub nom, Consolidated Gas Supply Corporation, et al.* v. *F.P.C.*, Nos. 74–1343, et al. (D.C. Cir. October 9, 1955).

which would occur if the level of curtailment increased over the sales estimates employed in setting these rates. He concluded by pointing to Transco's demand charge adjustment and the Commission's proposed rulemaking for end-use rates as more direct and effective methods for achieving the goals which this rate design proposal attempts to achieve indirectly.

Staff vigorously excepts to the initial decision concerning rate design. To begin with, Staff asserts that the Commission has disclaimed basing the 25–75 *United* formula upon discouraging industrial gas consumption and that the Court in affirming *United* has recognized this disclaimer, *supra* note 9. This assertion is made to counter the Administrative Law Judge's finding that a *United* rate design would not in this case discourage industrial gas use.

Secondly, Staff contests the finding that a change from *Seaboard* to *United* rate design will discourage investment by distributors in storage facilities. While Staff concedes that this rate design change will reduce the price discount received under *Seaboard* by the high load factor distributors it contends that this will not discourage storage investment for such high load factor customers still receive a significant price discount under the *United* rate design and any increase in the unit cost of gas to these high load factor distributors will in any event be passed on to their retail customers.

Thirdly, Staff discounts the Administrative Law Judge's reliance upon the increased financial risk to Transco resulting from a shift from *Seaboard* to *United* rate design, pointing out that while the Commission has already recognized this increase in risk for the pipeline, it remains committed to the *United* rate design and views careful estimating of future sales volumes when preparing a rate increase filing as sufficient protection against such increased risk.[39] Staff also finds judicial support for refusal to reject the *United* formula because of the increased financial risk of underrecovery, supra note 9.

Staff furthermore reiterates its fundamental rationale behind the *United* formula, which is that the shift of fixed costs recovery from the low load factor customers to the high load factor customers is justified because the latter group is receiving more gas than the former. (Staff refutes the Administrative Law Judge's statement that Staff assumes that this differential in deliveries is due to curtailment): By increasing the unit price of gas to the high load factor customer, those which receive more gas, the 25–75 *United* formula is seen by Staff as encouraging conservation. It contends that the Court in *Consolidated, supra* note 9, recognized that the *Seaboard* formula in comparison to the *United* formula encourages gas consumption. Staff attacks this promotional aspect of *Seaboard*. In discounting the Administrative Law Judge's further reasoning supporting the *Seaboard* formula (it is not equitable to shift fixed cost recovery from the low load factor customers to the high load factor customers because the customers developed their respective load factors prior to curtailment), Staff argues that this historical load factor disparity is no longer a reasonable basis for *Seaboard* because the subsequent occurrence of the natural gas shortage has caused an underutilization of Transco's system on both a peak and annual basis. (Tr. 469, 471, 487, 659–662, 714–719, 776, 872; Exh. 37, 38, 41). Staff stresses that this underutilization of Transco's system on both a peak and annual basis is sufficient justification by itself for changing from *Seaboard* to *United* rate design and that both the Court, supra note 9, and the Commission, supra note 10, have espoused this view.

Transco, Brooklyn, Columbia and Consolidated, and New York all oppose application to Transco's rate design of the United method. For example, New York argues that there is no evidence supporting Staff's position that the Seaboard rate design encourages gas consumption: It finds no conservation resulting from use of the United rate design. It also asserts that a shift to United would discourage the present low-load factor customers from investing in storage even if the present high-load factor customers would retain some price discount. New York concludes by viewing Staff's rationale behind United, to shift costs from low-load factor to high-load factor customers because the latter receive more gas than the former, as an indirect attempt at "compensation", which, if at all, should be addressed in the curtailment docket.

Brooklyn, as well as Columbia and Consolidated, preface their opposition to Staff's exception on rate design by enumerating distinctions between the United case, supra note 9, and the Transco system which they contend constitute sufficient legal differences to retain the Seaboard rate design: While United could not meet its peakday requirements, Transco's seasonal curtailment plan permits it to deliver its full contractual volumes on any given day; unlike United's tariff, Transco's tariff contains a demand charge adjustment and related commodity surcharge through which the fixed costs assigned to those demand charges which are curtailed are recovered through the commodity charge; while United has about 200 direct industrial customers, Transco has de minimis direct industrial sales; and although the high-load factor customers of United were generally the lower priority industrial users, Transco's high-load factor customers are distributors serving mainly residential and small commercial consumers. They also reiterate the impact on storage and financial risk to Transco, reasons advanced in the initial decision, as well as asserting that Staff has no cost-based evidence supporting the United rate design.

We find that the holding in the initial decision to redesign Transco's rates under the Seaboard method should be reversed. We are of the view that the facts of this case support a rate design based upon the United methodology.

There can be no dispute that the shifting of fixed costs resulting from a rate design change from Seaboard to United will increase the unit price of gas paid by high-load factor customers and will conversely decrease the unit price of gas paid by low-load factor customers, although these low-load factor customers will still pay higher unit prices (Tr. 473–A, 666). Moreover, to the extent that a low-load factor customer could improve its load factor by installing storage, a shift from Seaboard to United rate design will to some extent have a discouraging but not necessarily controlling effect. Under today's gas supply shortage it is necessary that pipeline and distributor companies take every action necessary to assure continued service to high priority loads. The construction of peak shaving facilities is an important step in the maintenance of gas service and the decision to construct such facilities will rest upon service requirements rather than rate design. This is apparent from the nature of Transco's interim curtailment plan wherein distributors and end-use customers alike are encouraged to use their best efforts to acquire peak shaving, supplemental supply sources, and storage whenever technologically and economically feasible.

We wish to clarify several points of law and fact which appear confused in the initial decision and the briefs. First of all, as both the Commission in United and the Court in Consolidated, supra note 9, have recognized, "[t]he development of extreme gas shortages and the resulting existence of large unused pipeline capacity provides a reasonable basis for reducing the demand component of the tariff charge and moving away from a marked peak differential." In other words underutilization of the pipeline's system warrants a shift of fixed costs to the commodity charge. Even though Transco could theoretically meet all the requirements of any customer on a peak day because its curtailment plan is seasonal and not daily (Tr. 474, 500), the record makes clear that Transco's pipeline system is underutilized on both an annual and a peak day basis. (Tr. 474, 477, 481–482, 487, 659–662, 672–673, 675–677, 776; Exhibits 37, 38, and 41). Statements in the record to the effect that in the past Transco has met 100 percent of the delivery requirements nominated or requested by its customers on a peak day are misleading and do not controvert the finding that Transco cannot meet its peak day requirements. This is true because Transco's customers must schedule their "requests" from Transco in the winter season in a carefully planned manner; actually, to insure that adequate supply is available late in the winter heating season each customer must schedule his "requests" from his winter seasonal entitlement in much the same

[39] *Trunkline Gas Company*, Docket No. RP 74–89, issued July 9, 1975 (Slip. Op. at 5).

manner as companies operate storage pools. For this reason, it would be highly unlikely that a customer would "request" his contractual entitlement on more than a few days in the winter season, and on a system as large as Transco's it would be extremely unlikely that all its customers would "request" their contract entitlement on the same day. However, in the event this latter event occurred, the evidence also indicates (Tr. 472) that on a coincidental peak day Transco would be unable to meet all of its requirements. Therefore, the record clearly demonstrates that Transco has a large amount of unutilized capacity on its system on both the peak day and the average annual day which leads us to the conclusion that from a utilization of capacity standpoint there is no difference between the Transco system, as shown in this record, and the United system, as shown by the record that lead to our decision in Opinion No. 671.

We next address the Judge's reasons for arriving at his decision that a Seaboard rate design is appropriate for the Transco system. Regarding the subjects of "discouraging low priority industrial use" and the "risks associated with shifting fixed costs to the commodity charge" we find that the staff has correctly interpreted our orders [13] and that the Judge's findings in these regards are no bar to a decision that a United rate design is appropriate for the Transco system.

We believe that the Judge's finding that a rate design based upon the United formula would discourage distributor investment in peak-shaving facilities cannot be supported on the basis of an analysis of the present availability of natural gas. In the past, when natural gas was available in quantities sufficient to meet demands, a distributor's decision to invest in a peak-shaving facility or to contract for additional gas supply from its pipeline supplier was principally an economic decision in which rate design was controlling. On the basis of economic studies a distributor could determine which alternative supply could be acquired at the lowest incremental cost, and on the basis of such studies a decision was made to either install peak-shaving capacity or to contract for additional gas supply from his pipeline supplier. However, under today's circumstances where a natural gas shortage exists, the distributor is not free to make a decision to seek additional gas supply from his pipeline supplier. Today, a distributor must attempt to serve all his customers that do not have alternative fuel capability. Thus, a distributor faced with a situation where he cannot presently serve or in the near-term future will not be able to serve all his customers' needs must seek additional supplies from sources other than contractual arrangements for additional gas supply from his pipeline supplier. These other sources would include SNG, coal gasification, Order No. 533 arrangements for qualified end-users, conventional storage and LNG from summer valley gas, other LNG arrangements, and other peak shaving. The dstributor would undertake economic feasibility studies, environmental studies, siting studies, and studies on the availablity of various feedstocks. From these studies the distributor would make a determination as to the most viable alternative fuel source. We cannot see any reason for the distributor taking into consideration whether his pipeline supplier's rate is based on the Seaboard formula or the United formula. We therefore find that a decision on our part to adopt the United formula of rate design should not have any appreciable effect on a distributor making a decision to invest in peak-shaving facilities.

Finally the Judge concluded there were direct and effective methods for achieving the goals which this rate design proposal (United) attempts to achieve indirectly; i.e., Transco's demand charge adjustment and end-use rates. We view demand charge adjustments and their subsequent recoupment through a commodity surcharg as a method of giving effect to the pipeline company's inability to meet contract commitments on individual days due to lack of sufficient gas supply while at the same time permitting the pipeline company to recoup that portion of its fixed costs included in its demand charges. We have stated on several occasions that pipeline companies should be permitted to recover those fixed costs included in their demand charges. We do not view this issue as providing us with an effective method to achieve our goals because, with the exception of approving the tariff provision, we simply do not have control over the level of the commodity surcharge. Its level is controlled by the weather, Transco's gas supply, and other circumstances. The commodity surcharge is continually changing from adjustment date to adjustment date and we do not believe its level provides us with the necessary direct control of the proper rate design.

We view end-use rates as a possible future step in our efforts to price gas more effectively in order to encourage conservation and discourage low priority use. However, we are not prepared at this stage to say if and when such approach may be adopted. Meanwhile we are faced with a declining gas supply accompanied by an increasing amount of excess pipeline capacity. The question of who should bear the cost burden must be addressed now rather than later.

On the basis of the above discussion we find there is no bar to a determination on our part to adopt a *United* rate design for Transco. Thus, if we were to adopt a *United* rate design rather than a *Seaboard* rate design, costs would be shifted from low-load factor distributors to high-load factor distributors. In *United* we determined that the annual use of the system was more important than peak usage and we found that customers that made greater annual use of the system should bear a heavier burden than they had in the past in contributing revenues toward recovery of *United's* cost of service. In the case of Transco, we believe that high-load factor distributors should also be required to shoulder a heavier burden toward recovering Transco's cost of service because they make greater annual use of Transco's system even though the increased cost may fall upon the same class of consumer. Therefore, we shall adopt the *United* rate design for Transco's system.

III. ADVANCE PAYMENTS

As of the end of the adjusted test period in RP75–3, that is January 31, 1975, Transco had made advance payments amounting to $15,006,250 which it has sought to include in rate base for the first time.[13] All of these advance payments were made pursuant to Order No. 499,[14] except for a portion of those made to Occidental, which are governed by Order No. 465.[14]

The Administrative Law Judge allowed Transco to include in rate base $11,665,654 of the $15,006,250 in advance payments claimed. He treated the advance governed by Order No. 465 separately from those governed by Order No. 499.

Concerning the $6,659,106 front-end or lump sum advance payment made under the August 10, 1973, contract between Transco and Occidental, which is governed by Order No. 465, he ruled preliminarily that Staff's 30 day installment rule (only advance payments actually expended by the producer within 30 days of the end of the test period) must find support, if at all, from the "reasonable and appropriate" criterion enunciated in Order No. 465, and not from Order No. 499 or post-Order No. 465 Commission orders. He permitted inclusion of this entire $6,659,106 front-end advance payment to Occidental in rate base upon a finding that this transaction was the product of "sound business judgment" and that Transco "did about as well as could be expected" in light of producers' superior bargaining power. He also found precedent rejecting Staff's proposed time

[13] Transwestern Pipeline Company, Docket No. RP74–52, issued March 2, 1976 (Slip Op. at 6); and Trunkline Gas Company, supra Note 10. The Commission therein was unpersuaded by the financial risk argument, noting that this problem can be remedied by careful estimates of future sales volumes, as well as by a new rate increase filing under Section 4 of the Natural Gas Act. In addition the Commission noted therein that the shift to the United rate design would pressure the pipelines to seek and secure the volumes of gas necessary to maintain the deliverability used in estimating sales volumes.

[13] See the following table:

Advance to:	Amount
Occidental Petroleum Corp. and Canadian Occidental of California, Inc. (Occidental)	9,000,000
Cities Service Oil Co. (Cities)	2,331,625
Skelly Oil Co. (Skelly)	2,331,625
Getty Oil Co. (Getty)	1,343,000

[14] 50 FPC 2111 (1973).

[14] 48 FPC 1550 (1972).

stricture on Order No. 465 advance payments.[15]

Concerning the remaining $8,347,144 of advance payments to Occidental, Cities, Skelly and Getty under Order No. 499, the Administrative Law Judge found definite Commission intention in that order to impose a strict time requirement between the making of the advance payment by the pipeline and its expenditure for exploration, development and production by the recipient producer. He then limited Transco's rate base entitlement to those Order No. 499 advances actually expanded by the respective producers by the end of the test period: $1,727,000 for the Cities advance payment, $1,727,000 for the Skelly advance payment, $787,000 for the Getty advance payment, and $765,548 for the remaining Occidental advance payment. He found that Transco's proposed rate base treatment for those advance payments not expended by the producers before the end of the test period violates the ratemaking precept that only expenditures for "used and useful" facilities can be included in rate base, as well as the basic Commission advance payment objective. In this connection he noted Commission precedent espousing this same strict timing standard.[16] He imposed a "line-of-credit financing" test by which there can be no time lag between the payment of the advance to the producer and the producer's expenditure of the advance. Accordingly, he rejected Staff's 30 day installment rule. In this regard he rejected Staff's further argument that, notwithstanding the 30 day installment rule, Transco's Order No. 499 advance payment to Occidental should go into rate base because it contains a repayment clause the benefit of which to the ratepayers outweighs the financial detriment of the front-end nature of the advances: He reasoned that Order No. 499 established an absolute time stricture which cannot be avoided by a balancing of benefits and detriments. In addition he was not persuaded by Transco's contention that it had negotiated in good faith under the circumstances, finding that the producers' insistence on front-end advance payments is irrelevant in the face of the Commission's express temporal restriction in Order No. 499 which cannot be ignored in light of market pressures. Finally, the Administrative Law Judge refused Transco's argument of retroactive ratemaking by adjudication, noting that the choice between rule-making and adjudication is vested in the agency's discretion.

As a collateral matter the Administrative Law Judge adopted Staff's proposal to attach a refund condition to the Commission's inclusion of portions of Cities', Skelly's, and Getty's advance payments to protect Transco's ratepayers against the reservation clause in these three contracts (these three producers have reserved up to one-third of the gas to flow from the acreage under these advances for use in their own plants or facilities). He did, however, reject Transco's proposed offset from these refunds for carrying charges on these advances resulting from regulatory lag: He found that regulatory lag is considered only in establishing a return on common equity.

Staff does not except to the result reached in the initial decision as to the Order No. 499 advance payments to Cities, Skelly and Getty, noting that the amount of advances allowed into rate base is the same as its recommendation, but it does except to the underlying reasoning; that is, Staff contests the Administrative Law Judge's reading of "line-of-credit financing" by which no time lag is permitted, noting that such a rule would require the producers to have adequate capital on hand before the advances were made, a situation at odds with the Commission's objective of capital formation. Staff contends that its 30 day rule is consistent with the Commission's objective underlying the advance payment program.

Staff then reiterates its theoretical imposition of the 30 day rule upon Transco's Order No. 465 advance to Occidental and excepts to the Administrative Law Judge's ruling that the Commission is precluded from imposing a specific time limit on Order No. 465 advance payments. It finds an undue burden upon Transco's ratepayers arising from the per se inclusion in rate base of this $6,659,106 front-end advance of Occidental in that as of March 1, 1975, Occidental had only expended $1,519,687 of this amount, and it would cite Commission precedent[17] supporting imposing of timing restrictions upon Order No. 465 advances. Notwithstanding these arguments, however, Staff continues to support inclusion of all $9,000,000 of Transco's advance payments to Occidental on the grounds that the repayment provision contained in the November 7, 1974, amendment of the Transco-Occidental advance payment contract should result in less carrying charges paid by Transco's ratepayers than would occur under the 30 day rule.[18] Concerning the Order No. 499 portion of the Occidental advance, Staff asserts out of fairness to Transco that the Commission should not apply the timing restriction found in Order No. 499 absolutely if and when, as herein, the pipeline has been able to obtain even more favorable terms despite the front-end nature of the advance. Staff would, however, have the Commission impose a condition requiring the refund of any carrying charges in excess of those that would have been paid by the ratepayers under the 30 day installment test.

In excepting to the initial decision Transco first of all attempts to refute the no time-lag rationale employed to reduce the allowable portion of the Order No. 499 advances to Occidental, Cities, Skelly and Getty from $8,347,144 to $5,006,548 by arguing that this reduction violates the ratemaking precept that a pipeline should be allowed to earn a fair return on capital investment prudently made. Transco then argues that the Commission should find that all the advance payments were prudently and in good faith made, pointing both to the record and to certain statements in the initial decision (p. 30). It furthermore contends that the Administrative Law Judge's blanket no time-lag rule conflicts with the Commission's express intention to consider the reasonableness of advances on a case-by-case basis. In this regard Transco points to the advantage accruing to its ratepayers from the 1974 amended Occidental advance payment agreement, to-wit: the improved repayment provision, supra note 18, and improved front-end timing by which further advances would be made only one year in advance. (Tr. 533, 538–539). Transco would reinforce the prudency of its front-end advance payments by reemphasizing the competitive market pressures then extant. It furthermore reiterates its argument that imposition of this rigid time standard is retroactive ratemaking in violation of Due Process, notwithstanding the Commission's discretion in choosing rulemaking or adjudication.

As a collateral matter while Transco does not oppose the refund condition relative to the producer "reservation" clauses, it does reassert its regulatory-lag offset proposal.

We find that the initial decision should be affirmed in part and reversed in part on the issue of advance payments. Specifically, while the $6,659,106 front-end advance made to Occidental and governed by Order No. 465 should be included in Transco's rate base, as was done in the initial decision, we do so for a different reason. In addition this new rationale should also be employed to include in rate base the $2,340,894 front-end advance made to Occidental and governed by Order No. 499, as compared to the $765,548 allowed in the initial decision. Finally, although only $4,241,000 of the $6,006,250 advance payments made to Cities, Skelly and Getty, should be included in Transco's rate base, as in the initial decision, the strict no time-lag test employed therein is rejected.

Concerning the $9,000,000 advance payment to Occidental, the portion gov-

[15] *Columbia Gas Transmission Corporation (Getty)*, Opinion No. 722, Docket Nos. RP71–8, et al., issued March 7, 1975; *Michigan Wisconsin Pipe Line Company*, Docket Nos. RP73–102, et al., initial decision issued March 31, 1975; *Tennessee Gas Pipe Line Corporation*, Docket No. RP73–113, initial decision issued February 3, 1975; and *Trunkline Gas Company*, Docket Nos. RP72–23, et al., initial decision issued November 13, 1974.

[16] *Natural Gas Pipe Line Company of America*, Docket No. RP73–110, issued September 4, 1974. (The Commission expressed its intent that advance payments resemble a line of credit, being drawn down as cost and progress dictate.)

[17] *Texas Eastern Transmission Corporation*, Docket No. RP74–41, issued September 17, 1975 (Slip. Op. at 9).

[18] Under this new repayment provision Occidental must repay all advances to Transco within five years of the first production of any block, instead of repayment on a block by block basis.

erned by Order No. 465 should be included in rate because it is "reasonable and appropriate." The Commission has noted the issue of time between the making of advance payments by the pipeline and the actual expenditure by the producer.[29] The Commission must be convinced by Transco that the agreement benefits the ratepayer. The record evidence in this proceeding (Tr. 600–602; Exhibit 41, Schedule 2) indicates that, while the advance payments to Occidental had not been substantially expended by the end of the test period (Occidental had expended only $2,285,234 of the $9,000,000), the amended rapayment provision, supra note 18, could well save the ratepayer more in advance payment carrying charges than would be saved by insisting upon Staff's 30 day installment rule or the Administrative Law Judge's "line-of-credit financing" rule. In addition under the November 1974 contract amendment additional payments by Transco to Occidental were to be made no more than one year in advance of Occidental's expenditure (Tr. 533). This is a change from the original agreement providing for completely front-end advances. Of course to the extent that subsequent actual Occidental costs and first production dates change so as to nullify this projected cost saving, Transco will be required to refund any carrying charges collected in excess of the carrying charges that would have been paid if the advances had been made on a monthly installment basis. While the Commission has been much more explicit in Order No. 499 than in Order No. 465 concerning the timing between payment and expenditure of the advance so as to mandate more stringent scrutiny of this aspect of Order No. 499 advances, the Order No. 499 portion of the Occidental advance payment should be included in rate base for the same reason detailed above.

Our inclusion in rate base of these Order Nos. 465 and 499 advance payments to Occidental comports with our recent order treating front-end advance payments made under Order No. 465, Tennessee Gas Pipeline Company, Opinion No. 769, Docket No. RP73–113, issued July 9, 1976. Specifically, while we excluded substantial front-end advances therein, we stated that "if a positive benefit to the consumer can be shown, (the pipeline) is entitled to rate base treatment of these advances." (Slip op. at 32). This approach of looking at the specific advance payment agreements on a case-by-case basis to ascertain whether there is a positive benefit to the consumer is reiterated in Opinion No. 769–A, issued this day. In the instant proceeding such a "positive benefit" has been demonstrated for the Occidental advances.

The Order No. 499 advance payments to Cities, Skelly and Getty should receive rate base treatment to the extent provided in the initial decision, that is $1,727,000 out of $2,331,625 paid to Cities and to Skelly and $787,000 out of $1,343,000 paid to Getty. Although it should be noted that under these three agreements Transco would make continuing advance payments to these producers semi-annually based upon producer expenditure estimates for the next six months (Tr. 531), this attempt by Transco to conform to the timing requirement of Order No. 499 is not convincing. Transco did not meet its burden of proof, and accordingly, it should be limited to rate base inclusion of those advances actually expended by Cities, Skelly and Getty within one month after the close of the adjusted test period. This absence of a showing of compensating benefit of the ratepayer to outweigh the absence of a close time relationship in the case of these three advance payments is contrasted to the successful showing of benefit in the advance payment to Occidental.

Finally, placement upon Transco in the initial decision of a refund condition to account for any exercise of the reservation options in the agreements with Cities, Skelly and Getty should be affirmed. This is necessary to protect the interest of the ratepayers and follows Commission precedent.[30] Transco's suggested regulatory lag offset was likewise correctly denied.

In conclusion, of the total $15,006,250 of advance payments sought by Transco to be included in rate base $13,241,000 should be put into rate base.

IV. DEMAND CHARGE ADJUSTMENT AND STORAGE INJECTION RATE

Although the settlement of these two dockets settled all issues except for the three reserved issues of unsuccessful SNG project expenditures, rate design and front-end advance payments, Brooklyn for the first time on brief to the Administrative Law Judge sought the abolition of Transco's demand charge adjustment and the establishment of a special storage injection rate which would exclude all non-storage related fixed costs. While the Administrative Law Judge noted a minimal amount of evidence on these matters introduced by Brooklyn, he summarily rejected both proposals on the ground that the other parties were not given timely notice of the issues and an opportunity to present evidence on these matters. He suggested that, if Brooklyn retained interest in these two issues, it should institute a Section 5 proceeding.

In excepting to the refusal to consider eliminating the demand charge adjustment and instituting a special storage injection rate, Brooklyn makes the argument that the reservation of the rate design issue for this adjudication necessarily includes the allegedly related issues of demand charge adjustment and storage injection rate, which also deal with the demand-commodity relationship. It then proceeds to discuss the merits of its two proposals.

Transco, Staff, New York, and Con Ed oppose Brooklyn's exception on the multiple bases of lack of notice to the other parties, absence of record evidence supporting Brooklyn's position, and the narrow scope of the reserved rate design issue (choice between the United and Seaboard formulas). Columbia and Consolidated note that they do not support Brooklyn; however, if the Commission were to retain the United rate design, they would then support Brooklyn's proposed special storage injection rate.

We find that the refusal in the initial decision to consider Brooklyn's two proposals should be affirmed. Section 10 of Article III of the settlement clearly establishes the narrow scope of the rate design inquiry, and accordingly no party had reason to anticipate adjudication of Transco's demand charge adjustment and lack of a special storage injection rate, notwithstanding Brooklyn's belated attempt on brief to the Administrative Law Judge to inject these issues. Clearly the minimum standards of notice and opportunity to present evidence have not been satisfied.

V. MISCELLANEOUS

In the ordering clause of the initial decision the Administrative Law Judge ordered Transco to file revised tariff sheets reflecting the changes made in the initial decision, as well as making the corresponding refunds. Transco excepts to the filing of revised tariff sheets because RP75–3 is now a "locked-in" docket. It also excepts to the refund order as it relates to rate design (the settlement stated that resolution of the rate design issue would only have prospective effect) and to advance payments (due to an advance payment tracking filing under the settlement made on July 1, 1975, these refunds should only cover the period from February 1, 1975, through June 30, 1975).

Staff opposes Transco's miscellaneous exceptions. To begin with, while it acknowledges that RP75–3 is "locked-in" by RP75–75 so as to render the RP75–3 rate no longer "effective," Staff argues that the RP75–3 tariff should be revised to reflect the resolution of the reserved issues anyway. Although Staff agrees with Transco that refunds should not be ordered concerning rate design because resolution of that reserved issue was expressly limited to prospective effect, it

[29] *Columbia Gas Transmission, supra* 15, slip Op. at 8 ("We agree with the Staff that there must be a reasonable and appropriate relationship between the amount and time of advance and the amount and time of their utilization." This was in the context of Order No. 441); *Natural Gas Pipe Line, supra* note 17, slip op. at 6 ("Our intent has been that the actual advance of funds would closely approximate the operation of a line-of-credit i.e., the funds would be drawn down as cost and progress required." This was in the context of Order No. 465); and Order No. 499, supra note 14 ("Moreover, as a general policy, we shall not consider amounts advanced to be 'reasonable and appropriate' for inclusion in rate base where such amounts are in excess of costs for exploration, development and production incurred by the producer within a reasonable time from the date such amounts advanced are included in the pipeline's rate base.").

[30] Columbia Gas Transmission Corporation, supra note 15, (Slip Op. at 9).

opposes Transco's argument against refunds concerning disallowed advance payments because the Commission has rejected Transco's advance payment tracking filings. Accordingly, Staff contends that such refunds should be ordered for the period from February 1 through October 1, 1975.

We find that ordering paragraph (a) of the initial decision, requiring the filing of revised tariff sheets, be adopted, and that ordering paragraph (b) of the initial decision, requiring refunds, should be expressly limited to the unsuccessful SNG project expenditures and the advance payments, as Staff proposes.

The Commission further finds: (1) Applicant, Transcontinental Gas Pipe Line Corporation, is a "natural gas company" subject to the provisions of the Natural Gas Act, and the sales of natural gas subject to the order which follows as a part of this decision are sales of natural gas in interstate commerce for resale subject to the jurisdiction of the Commission.

(2) Those portions of Applicant's rates, which were not part of the settlement accepted by the Commission on November 13, 1975 and which have been in effect in these dockets subject to refund, have not been shown to be just and reasonable or otherwise lawful under the provisions of the Natural Gas Act in the respects noted above, and Applicant should be required to file revised tariff sheets encompassing just and reasonable rates as necessary to conform to this opinion and order.

(3) Applicant should be required to refund to its jurisdictional customers any amounts reflecting the difference between its proposed rates and the rates required to be filed by this opinion and order, specifically relating to unsuccessful SNG project expenditures and advance payments.

(4) The initial decision issued in this reserved issues proceeding on December 22, 1975, should be affirmed in part and reversed in part as hereinabove detailed.

(5) The unilateral offer of settlement filed by Transco on July 2, 1976, should be rejected for the reasons set forth in the body of this order.

The Commission orders: (A) The increased rates referred to in Paragraph (2) above are disallowed to the extent that they do not conform to this opinion and order.

(B) Within 60 days of the issuance of this opinion and order Applicant shall file any necessary amendments to its cost of service, rate design and tariff sheets for the period from February 1, 1975, to October 1, 1975, relating to unsuccessful SNG project expenditures and advance payments and prospectively relating to rate design, subject to the approval of the Commission.

(C) Within 30 days of the Commission's approval of its substitute tariff sheets in accordance with paragraph (B) above, Applicant shall refund to its customers for the period of February 1, 1975, to October 1, 1975, all amounts, relating to unsuccessful SNG project expenditures and advance payments collected in excess of those which have been payable under the rates and charges approved in accordance with paragraph (B) above, together with interest at the rate of nine (9) percent per annum from the date of payment to Applicant to the date of refund.

(D) Within 30 days after making the refunds required by paragraph (C) above, Applicant shall file with the Commission in writing and under oath a report as to the amount of any refunds made and its method of computing the same, together with releases from its jurisdictional customers.

(E) The initial decision issued in this reserved issues proceeding on December 22, 1975, is affirmed in part and reversed in part as hereinabove detailed.

(F) Exceptions not granted are denied.

(G) Brooklyn's motions for oral argument and expedited decision are hereby denied.

(H) Transco's offer of settlement is hereby rejected.

By the Commission. Commissioner Holloman, dissenting, filed a separate statement appended hereto.[*]

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15900 Filed 6-3-77;8:45 am]

[Docket Nos. CP74-138; CP 74-139; CP74-140]

TRUNKLINE LNG CO. AND TRUNKLINE GAS CO.

Extension of Time

MAY 27, 1977.

On May 26, 1977, the Illinois Commerce Commission filed a motion for an extension of time to June 28, 1977, to submit comments on Opinion and Order On Proposal to Import Liquefied Natural Gas to the United States From Algeria, issued April 29, 1977, in the above-indicated docket.

Upon consideration, notice is hereby given that an extension of time is granted to and including June 15, 1977, within which to submit comments in the above proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15896 Filed 6-3-77;8:45 am]

[Docket No. RP73-113; Opinion No. 769-A]

TENNESSEE GAS PIPELINE CO.

Opinion and Order Denying Rehearing

MAY 31, 1977.

On July 9, 1976, the Commission issued Opinion No. 769 establishing just and reasonable pipeline rates for Tennessee Gas Pipeline Company (Tennessee). Applications for rehearing of portions of Opinion No. 769 were filed on August 6, 1976, by Berkshire Gas Company, et al. (Berkshire), and Trunkline Gas Company (Trunkline); on August 9, 1976, by Tennessee, Interstate Natural Gas Association of America (INGAA) which simultaneously petitions to intervene), Transcontinental Gas Pipe Line Corporation (Transco) (which simultaneously petitions to intervene), Columbia Gas Transmission Corporation and Consolidated Gas Supply Corporation, (Columbia and Consolidated) and Brooklyn Union Gas Company (Brooklyn); and on August 10, 1976, by the Public Service Commission of the State of New York (PSCNY). Also on August 9, 1976, Tennessee and INGAA filed motions for oral argument of the front-end advance payment issue in Opinion No. 769. By order of September 3, 1976, we granted rehearing for purposes of further consideration, denied the motions for oral argument, and granted untimely petitions to intervene.

I. ADVANCE PAYMENTS

(A) FRONT END ADVANCES

Tennessee, Transco, INGAA, Trunkline, and PSCNY all seek rehearing of the Commission exclusion of some $92,000,000 of front-end advance payments which had not been expended by the recipient producers by the effective date of the proposed rates. Numerous grounds are advanced.

Tennessee begins its assault upon the "line of credit" test referred to in Opinion No. 769 by contending that this test conflicts with the "reasonable and appropriate" standard extant not only in the applicable advance payment order, Order No. 465, but also its predecessors.[1] It then adds that the standard is "reasonable and appropriate in order to obtain commitments for additional gas supplies." Tennessee then details the contents of these several advance payment orders in order to emphasize the absence of any express "line of credit" time limitation upon the disbursement of advance payments. It moreover advances case authority[2] which allegedly supports its contention that the "reasonable and appropriate" standard of Order Nos. 410, 410-A, 441, and 465 does not encompass the "line of credit" test adopted in Opinion No. 769.

Tennessee, joined by INGAA, then advance what appears to be an estoppel argument; that is, they allege that from

[*] Statement filed as part of original document.

[1] Order No. 465, 48 FPC 1550 (1972); Order No. 441, 46 FPC 1178 (1971); Order No. 410-A, 45 FPC 135 (1971); and Order No. 410, 44 FPC 1142 (1970).

[2] *Columbia Gas Transmission Corporation* (Advance Payment Getty), Opinion No. 722, Docket Nos. RP71-18, et al., issued March 7, 1975, *aff'g Columbia Gas Transmission Corporation*, Docket Nos. RP71-18, et al., initial decision issued January 18, 1974; *Trunkline Gas Company*, Docket Nos. RP72-23, et al., initial decision issued November 13, 1974; *Transcontinental Gas Pipe Line Corporation*, Docket Nos. RP74-48, et al., initial decision issued December 22, 1975; *Michigan Wisconsin Pipe Line Company*, Docket Nos. RP73-102, et al., initial decision issued March 31, 1975.

various sources[5] the Commission had knowledge of the wide-spread existence of front-end advances but chose to take no action against them until Opinion No. 769. They infer from this alleged pre-Order No. 465 Commission knowledge of the existence of front-end advances and the absence of language in Order No. 465 specifically excluding such advances that the Commission could not have intended the "reasonable and appropriate" standard to encompass the "line-of-credit" standard.

Tennessee next turns to the most recent advance payment order, Order No. 499,[6] and asserts that the Commission's general policy stated therein (to exclude advances not expended by the recipient producer "within a reasonable time from the date such amounts advanced are included in the pipeline's rate base") necessarily indicates that there was no such policy intended in Order No. 465. Tennessee, supported by INGAA, concludes this particular basis for rehearing by arguing that the Commission in Opinion No. 769 violated due process by retroactively applying this new timing standard first enunciated in Order No. 499 to the instant proceeding governed by the prior Order No. 465.

Tennessee then recites its evidentiary presentation on this issue (Exh. T-12, T-13) to support a finding that its front-end advance payments are "reasonable and appropriate" under its interpretation of Order No. 465. Specifically, it points to evidence showing that front-end advances were common business practice, of benefit to its customers, made by Tennessee in good faith, and an absolute term of trade which the producers could insist upon because of their superior bargaining position. Tennessee, INGAA, Transco and PSCNY stress the importance of this latter point, that competitive pressures forced Tennessee to make front-end advance payments, as is allegedly recognized by the Commission in Opinion No. 722, supra note 2.

The other parties seeking rehearing of our exclusion from rate base of Tennessee's front-end advance payments come forward with numerous theories. Transco and INGAA suggest that the Commission erred by founding the timing test upon how a producer finances exploration and development. Instead, they contend that the relevant inquiry is how a pipeline would finance its advance payments, and that from the pipeline financing perspective Staff's thirty-day rule is clearly wrong for a pipeline will finance advances in part through equity and long-term debt securities, which cannot be used to raise capital in such a short period, and in part through bank borrowings, which often require commitment fees or maintenance of compensating balances. As a related matter INGAA also contends that there was no substantial evidence supporting application of the "line of credit" thirty day rule to producers. It discounts Staff's presentation on the subject, and it moreover alleges that producers, like pipelines mentioned above, rely heavily upon equity and long-term debt securities, which cannot be marketed in installment quantities and on thirty days notice, as well as bank loans requiring commitment fees or compensating balances.

Transco continues with several more contentions. To begin with, it points out that Opinion No. 769, by adopting a per se rule (front-end advances are presumptively extravagant) conflicts with the Commission's prior position that it would judge the reasonableness and appropriateness of advance payments on a case-by-case basis. Transco furthermore reasons that the "line of credit" standard is anathema to the underlying purpose of the advance payment program, which is to provide an extra incentive or stimulus to producers. Finally, Transco propounds that the "line of credit" standard equates to interest reimbursement, which the Commission has already rejected.

We find that rehearing of Opinion No. 769 as to our exclusion of front-end advance payments from rate base should be denied. Accordingly, we continue to exclude such advances for they have not been shown to be reasonable and appropriate.

Tennessee contends that, by imposing the "line of credit" standard upon its Order No. 465 advance payments, the Commission went beyond the "reasonable and appropriate" standard of Order No. 465 or its predecessors; however, this is clearly not the case. Every time a pipeline seeks to increase its jurisdictional rates Section 4(e) of the Natural Gas Act mandates that it prove that such increase is just and reasonable. This burden of proof governs Tennessee's actions notwithstanding the specific language of any Commission rulemaking order. In the present context, however, the Commission has expressly forwarned the interstate pipelines that only "reasonable and appropriate" advances will be permitted in rate base. If advances which are front-end in nature are in fact unreasonable and inappropriate, then it is difficult to understand how the Commission is precluded from enforcing the express "reasonable and appropriate" standard. The several specific criteria placed in the advance payment orders up to and including Order No. 465[7] were intended to address particular details of the program which might not be conclusively resolved in the "reasonable and appropriate" standard. Since, as we shall elaborate upon subsequently, a substantial time lag between when the pipeline advances funds to the producer and when the producer actually expends such funds has no inherent justification, there was no need to specifically identify the problem. It cannot be argued that the Commission's rate jurisdiction under Sections 4 and 5 of the Natural Gas Act is limited to those items specifically and previously stated in a rulemaking or adjudicatory order, even though the rate increase item at issue is nonetheless unreasonable and inappropriate. Moreover, Tennessee's insistence upon language in Order No. 441 ("reasonable, necessary and appropriate in order to contract for gas supplies") is misplaced for that language refers to the underlying justification for the entire advance payment program.

The Commission did not establish a new standard in Opinion No. 769. Instead, it applied the existing "reasonable and appropriate" test. The "reasonable and appropriate" standard predates Order No. 465. It was also found in Order Nos. 410, 410-A and 441; however, this standard was never interpreted by the Commission to tolerate front-end advance payments, Tennessee's allegations to the contrary notwithstanding. Advance payment timing was not mentioned in Order No. 465 because there was no apparent need to alter the "reasonable and appropriate" standard, which already contemplated the exclusion of extravagant and unnecessary expenditures. In addition as early as September 1974, the Commission had explicitly stated that the "reasonable and appropriate" standard in Order No. 465 encompasses a reasonable timing test.[8]

The issue of the reasonableness of front-end advances was clearly raised in this proceeding by Staff's direct case for the thirty day rule. (Exh. S-10, and 49). Tennessee had the opportunity to rebut the thirty day rule but chose instead to argue as a matter of law that Order No. 465 contemplated front-end advances (Exh. T-12), and as a matter of fact that the producers would not have been as inclined to enter advance payment agreements absent the front-end "incentive." (Exh. T-13). Staff raised serious questions as to the reasonableness of Tennessee advancing large sums to producers which did not plan to use them for a period of months or years. While we do not find that a maximum time lag of thirty days between advance and expenditure is necessarily the only reasonable and appropriate standard, it was well pleaded and completely unrebutted by Tennessee. Accordingly, we find that Tennessee failed to meet its burden of

[5] (1) The position taken by PSCNY against front-end advances in several proceedings; (2) Data contained in Attachment D to Order No. 465; (3) Data contained in FPC Form 102 reports on file with the Commission (summarized in Exh. 72); (4) Commission rejection in Order No. 465 (48 FPC at 1552) of a proposed "per Mcf cost" for reserves attached under the program; (5) FPC Office of General Counsel statement delivered to Federal Power Bar Association on April 29, 1971.

[6] 50 FPC 2111 (1973).

[7] Inclusion of producer costs for exploration; five year period from inclusion in rate base until commencement of gas deliveries; five year repayment period; inclusion of advance payments to affiliate producers; continued exclusion of lease acquisitions.

[8] *Natural Gas Pipeline Company of America*, 52 FPC 652, 655 (1974). The Commission therein stated in regard to Order No. 465 that "(o)ur intent has been that the actual advance of funds would closely approximate the operation of a line-of-credit, i.e., the funds would be drawn down as cost and progress required."

proof that its front-end advance payments were reasonable and appropriate.

It might be that Tennessee requires more or less time in order to make available the funds needed by the recipient producer for specific expenditures; however, Tennessee was silent on this point which was clearly at issue. Staff pointed out (Exh. S-9, p. 6) that on the average Tennessee's front-end advances were not fully utilized by the recipient producers for 22.8 months. Although in specific cases it might be reasonable to expect that the pipeline needs more than thirty days to respond to a producer's request for funds for imminent exploration, development or production activity, we can conclude from our regulatory experience that no company would ever attract capital as far in advance of expenditure as Tennessee has allowed its recipient producers to do in this case. It would be unjust and unreasonable to saddle Tennessee's customers with the carrying charges of such extravagant financial arrangements.

It must be remembered that the entire advance payment program was a sharp departure from traditional producer regulation. Although the program was "a justifiable experiment in the continuing search for solutions to our Nation's critical shortage of natural gas,"[7] the unique nature and obvious impact upon the pipelines' customers of the program have required throughout close scrutiny of the associated costs. Under such circumstances it seems incredible that any pipeline would have advanced large sums to producers many months or years before those producers planned to expend them.

Moreover, Tennessee's allegation of Commission knowledge of the existence of substantial front-end advances prior to its promulgation of Order No. 465, supra note 3, is not only unfounded but also inappropriate. Tennessee is asking the Commission to first of all infer, from statistical data and other material, patent evidence of massive front-end advances and secondly to assume the responsibility for amending its advance payment regulations to explicitly address this at best inferred problem with the penalty for nonfeasance (excessive and unnecessary carrying charges) imposed upon the consumer. Tennessee's estoppel argument conflicts with the mandate of the Natural Gas Act and cannot prevail. In addition it is factually unfounded.

The alleged sources and indications of Commission knowledge of pre-Order No. 465 front-end advance payments, supra note 3, are inadequate under any standard. To begin with, PSCNY's comments to the notice of rulemaking preceding Order No. 465, as well as its application for rehearing of Order No. 465, both cited by Tennessee, indicate a general concern for the relative inequality of bargaining positions between producers and pipelines and a desire for greater standards to be imposed upon advances, noting that "possibly they could be tied to specific cost expenditures." While one could possibly infer from this that PSCNY was concerned over front-end advances, such an inference is by no means obvious or even likely.

In addition, the advance payment data presented in both Attachment D to Order No. 465 and FPC Forms 102 does not afford a patent demonstration of wide-spread front-end advances prior to Order No. 465. The Commission employed Attachment D in Order No. 465 to demonstrate that the advance payment program had resulted in significant production activity, including the addition of substantial proven reserves. Under Tennessee's argument, the Commission would now have to waive the protection of the Natural Gas Act as to Tennessee's customers for any otherwise "unreasonable and inappropriate" advances of the type which might conceivably be inferred to exist from some statistical data used by the Commission for a totally different purpose.

Furthermore, Tennessee's reference to Commission rejection in Order No. 465 (48 FPC at 1552) of the proposal to determine a charge per Mcf by dividing dollars advanced by total reserves reported is inapposite as to the instant factual issue. It is clear from the Commission's reasoning therein that recognition of front-end advances was not one of the bases for rejecting the proposal. The remainder of the alleged sources (General Counsel statement) is too attenuated to warrant any reply.

We are similarly unpersuaded by the legal precedent cited, supra note 2. Except for Opinion No. 722, initial decisions alone are being called upon. The Commission is obviously not bound by the ruling of an Administrative Law Judge if it finds that the initial decision is erroneous as a matter of law or fact. In addition Opinion No. 722 does not support Tennessee's stance. Even a cursory reading of that order indicates that the Commission approved of the timing concept being implicit in the "reasonable and appropriate" standard,[8] and the inclusion of certain front-end advances therein was expressly limited to the facts.[9] To the extent, however, that Opinion No. 722 could conceivably be read as Commission sanction of rate base inclusion for front-end advances which have not been shown to be reasonable and appropriate, it is hereby overruled and shall not be followed in any Commission decision. Such rejection of the holding in Opinion No. 722 in no way prejudices Tennessee since its issuance date of March 7, 1975, follows the end of the adjusted test period in RP 73-113.

We turn to Tennessee's argument that a timing standard to be applied to front-end advances was not promulgated until Order No. 499 and that accordingly its retroactive application to advances made pursuant to the earlier Order No. 465 violates due process. Opinion No. 769 does not run afoul of the proscription against retroactive rulemaking because, as we have already demonstrated above, the "reasonable and appropriate" standard, extant through all of the advance payment rulemaking orders, necessarily covered such unnecessary and extravagant costs as those resulting from front-end advances. Of course the Commission did explicitly impose the timing standard in Order No. 499; however, this was no change in policy. It was instead due to the Commission's realization that the pipelines were disregarding the "reasonable and appropriate" standard of Order No. 465 and that its intention had to be further delineated.

Neither can the Commission find an adequate basis for including these front-end advances from Tennessee's evidentiary presentation (Exh. T-12, T-13), as we have already concluded in Opinion No. 769. Although we would include in rate base front-end advances made under agreements for which the terms and conditions produced a positive or net benefit to the consumer, no such showing of net benefit has been made by Tennessee. An example of such positive benefit is found in Transcontinental Gas Pipeline Corporation, Opinion No. ——, Docket Nos. RP74-48 and RP75-3, issued on this day.

Through the conclusory statements of its witnesses Tennessee attempts to prove that its front-end advances are reasonable and appropriate for the following reasons: (1) Tennessee made a good faith effort to comply with Order No. 465 as it understood that order. (Exh. T-12, pp. 2-10). (2) It was reasonable to make front-end advances under Order No. 465 because so many advances were being made in that format at that time. (Exh. T-12, p. 11). (3) The producers insisted upon front-end advances; therefore, Tennessee could not have formed any advance payment contracts but for the front-end feature. (Exh. T-12, pp. 11-12; Exh. T-13, pp. 3-6). (4) Front-end advances benefit the consumer for they commit gas reserves at a lower cost than installment advances for the latter are subject to cost escalation. (Exh. T-12, p. 13; Exh. T-13, p. 6). (5) Front-end advances also benefit the consumer by creating financial certainty for the pipeline which is translated into rate stability. (Exh. T-12, p. 13). (6) Front-end advances moreover benefit the consumer by promoting more rapid exploration and

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[7] *Public Service Commission of New York* v. *FPC* 467 F. 2d 361, 371 (D.C. Cir. 1972). Of course pursuant to the court remand in *Public Service Commission of New York* v. *FPC* 511 F. 2d 338 (D.C. Cir. 1975) the Commission has subsequently reassessed the program and has determined that the advance payment program should be terminated. Advances for Gas Exploration, Development and Production, Docket Nos. R-411 and RM74-4, orders issued December 31, 1975, and February 27, 1976. In addition the Commission has more recently required a reduction in the charge paid by a pipeline to a producer under the new national rate for the carrying charges for any advances made after November 5, 1976. Opinion No. 770-A, Docket No. RM75-14, issued November 5, 1976.

[8] "We agree with Staff that there must be a reasonable and appropriate relationship between the amount and time of advance and the amount and time of their utilization." (Slip op. at 8).

[9] "Our action herein should not be interpreted to mean that in any future cases the reasonable and appropriate standards as discussed above will be waived." (Slip op. at 9).

development and tying attachment of onshore reserves to offshore reserves. (Exh. T–12, p. 13–14; Exh. T–13, pp. 6–7). Not only is the aforementioned evidence of limited value because it is merely conclusory statements, but it is also in large part incorrect.

All of the arguments made in favor of front-end advances tactfully avoid the central fact that, while Order No. 465 permits rate base treatment for advances used for gas exploration, development and production, Tennessee's front-end advances were used by the producers for a substantial time period for other purposes. As we have already stated, a pipeline might be able to show that it needs more than thirty days to finance its advances upon request by the producer; however, to merely advance the recipient producer large sums of money, long before that producer would under common business practice obtain liquid funds and long before it intended to expend such sums, is necessarily unreasonable and inappropriate. While Tennessee now bemoans the competitive situation (front-end advances were a necessary term of trade) in which it found itself in 1973, it should have appraised the Commission of the problem at that time instead of participating in this unreasonable and inappropriate contractual arrangement. Moreover, the Commission cannot surrender the rights of the consumer when a number of pipelines, as in the present case, decided to make excessive advances and as a result made the front-end feature a required condition of advance payment bargaining.

We conclude by addressing the arguments presented by the other parties seeking rehearing. To begin with, a determination of reasonableness and appropriateness requires consideration of the common business practices of producers; however, we would have also considered evidence by the pipeline as to how it could reasonably finance its installment payments to the producers for specific expenditures. In other words a pipeline might be able to show that thirty days is too short. Unfortunately, Tennessee declined to make such a presentation and must now stand upon its silence. The burden of proof was upon Tennessee to rebut the thirty day rule and it ignored the burden. In this case, we do, however, exclude from rate base any advances made by Tennessee which had not been expended by the recipient producer within thirty days after the end of the nine month adjusted test period. In addition we reject the contention that the Commission has ignored its prior pronouncements of avoiding a per se stance and adopting a case by case approach. Since we have applied the reasonable and appropriate standard to the specific facts of this case, as is evident from the discussion above, it is clear that the Commission has not taken a per se view of these front-end advances. Furthermore, the incentive purpose of the advance payment program is manifested in allowing the producers consumer-financed, interest-free loans for exploration, development and production expenditures. Although the producers would obviously be further enriched by interest-free loans for any other purpose, as would result from front-end advances, this added incentive imposes excessive and unreasonable costs upon the consumer. Finally, the Commission's rejection of interest reimbursement schemes [10] does not govern the installment advance concept approved herein. Limiting rate base treatment to advances made within a reasonable time of expenditure does not equate to interest reimbursement. This is because a producer, which has not been able to attract sufficient capital for exploration, development and production, should be able to finance its expenditures through an advance payment arrangement contemplating installment, not front-end, advances.

(B) ADVANCES TO AFFILIATE PRODUCERS

Tennessee also seeks rehearing of the Commission's affirmance of the exclusion from rate base in the initial decision of non-Canadian, unexpended, intracorporate advance payments. It prefaces its argument with its prior conclusion that front-end advances are permissible under Order No. 465. It then argues that, if the Commission in Opinion No. 769 affirmed the rationale found in the initial decision, it has committed error for Order No. 465 clearly states that advances to affiliated and independent producers shall receive the same treatment.

We deny rehearing of our exclusion of Tennessee's non-Canadian, unexpended, intracorporate advances. We do so, however, solely for the same reason that we excluded front-end advances, but in the context of the initial decision the Administrative Law Judge erred by treating affiliated and independent producers differently. He failed to follow our pronouncement in Order No. 465 that "(f)or rate base purposes advances to pipeline affiliated producers shall be treated the same as advances to independent producers."

(C) CANADIAN ADVANCES

Tennessee moreover seeks rehearing of the Commission's exclusion from rate base of $37,500,000 of advance payments made to Tenneco Oil and Mineral Limited for exploration and development in the Arctic Islands area of Canada. It assigns error first of all to the alleged Commission failure to consider its evidence of requisite Canadian assurances of export authorization and secondly to the Commission's limited consideration of extra-record material concerning Canadian export policy in that the Commission failed to consider other material which Tennessee cites for the first time herein.

Tennessee prefaces this rehearing petition by noting for the first time that it would accept a condition requiring refund of all carrying charges related to this Canadian advance if Canada ultimately declined to authorize exportation of this Arctic Island gas to Tennessee. It then attacks the exclusion of its Canadian advances by first relying upon its evidentiary presentation below (Exh. T–14) to prove that export authorization for this Arctic Island gas will occur. It reiterates its position that under the Canadian National Energy Board's (NEB) export test (there must be a surplus of reserves over 25 times the level of Canadian demand four years in the future) the 34.2 Tcf threshold has been more than met by the 60 Tcf reserves estimates, which do not include a possible 30 Tcf from the Artic Islands, as well as additional reserves from the other frontier areas of the McKenzie Delta and offshore Atlantic. It also refers to prior Commission optimism over future Canadian gas exportation into the United States,[11] along with Staff's depreciation evidence in this proceeding, that being reliance in part upon increased Canadian exports.

Tennessee next refers to extra-record material allegedly not considered by the Commission [12] and concludes therefrom that Canada maintains its commitment to export gas.

We deny Tennessee's application for rehearing of our exclusion in Opinion No. 769 of its Canadian advance payments. To begin with, as we pointed out in Opinion No. 769, Canadian advance payments are not sanctioned under our advance payment regulations. Accordingly, it is not enough for a pipeline to demonstrate compliance with such regulations. The sole basis for even considering Canadian advance payments is our prior statement that pending a Canadian advance payment rule-making such advances "shall be treated on a case by case basis." [13]

Or caution and restraint over Canadian advances is obviously due to the added uncertainty over ultimate resulting gas deliveries to the pipeline's customers arising from the need for export authorization. Consequently, a pipeline must demonstrate that receipt by the appropriate American consumers of the Canadian gas at issue will most likely occur. Tennessee did not make this showing.

In light of the heavy burden of proof imposed upon Tennessee, its evidence is inadequate. Tennessee founds its position of likely export authorization upon a 1971 NEB decision denying a request for authorization. Since in the Canadian

[10] E.g., *United Gas Pipe Line Corporation*, Docket No. RP75–50, order issued September 4, 1975; and *Transcontinental Gas Pipe Line Corporation*, Docket No. RP75–75, issued September 9, 1975.

[11] *Consolidated Gas Supply Corporation*, Opinion No. 703, 52 FPC 454, 462 (1974); *National Gas Survey*, Volume I.

[12] *Canadian National Gas Supply and Requirements*, National Energy Board of Canada, April 1975, p. 94; *An Energy Strategy for Canada; Policies for Self-Reliance*, Minister of Energy, Mines and Resources, 1976, pp. 67, 80, 81, and 124; and statement of the current Minister of Energy, Mines and Resources, Alastair Gillispie in December 1975.

[13] *Advances to Suppliers for Gas Outside Continental United States*, Docket No. R–466, Notice of Rulemaking, 38 Fed. Reg. 1055 (January 1973).

advance payment context it is necessary to anticipate future export authorization. Tennessee's 1971 material is stale, especially in light of the significant changes in Canadian export policy, infra, since that time. Even when we consider this evidence on its own, it is unpersuasive: In 1971 the NEB found a 1.1 Tcf supply deficiency over the 25 times fourth year demand requirements. This finding entailed established Canadian reserves of 60.3 Tcf: therefore, Tennessee's assertion that established reserves need only exceed 34.2 Tcf is clearly erroneous. In addition Tennessee had introduced insufficient evidence to show that the NEB's 1971 exclusion of frontier reserves is likely to change. Its allegations of 30 Tcf from the Arctic Islands remains premature.

Turning to the beyond the record matter of which we are entitled to take administrative notice, the 1975 NEB report, supra note 12, is the most germane for the NEB is the Canadian agency charged with considering export authorizations. A reading of that report as a whole indicates that the NEB is now scrutinizing export applications much more closely in relation to Canada's energy needs and interests. In addition it is clear to the Commission that the NEB is no longer calculating the exportable surplus gas solely on the basis of reserves. It is also interested in deliverability: "The Board will henceforth make a case-by-case assessment of reserves and deliverability both when licenses, if any, are issued and at appropriate intervals." NEB report, supra note 12, p. 94. In this vein we note, by extrapolating from Tables 2 and 19 of the NEB report, that from 1975 through 1985 the NEB projects that the annual volumes available for export from the conventional producing areas will decline from 937 Bcf to zero. Furthermore, the NEB report indicates Arctic Island reserve estimates to range from 8.5 Tcf to 12.5 Tcf, not Tennessee's 30 Tcf. Finally, it is clear from the report that the NEB continues to exclude frontier area gas from its export deliberations due to uncertainty of amount and more importantly absence of any approved means of moving this gas to market.

The other official publication referred to by Tennessee, An Energy Strategy for Canada, supra note 12, does not support Tennessee's position. To begin with, as the authors recognized (p. 57) it is based on a " 'total energy' framework related to specific assumptions," while the NEB report is "derived from detailed analysis of the domestic oil and gas markets on the basis of submissions received at public hearings and independent analysis." In that this publication was intended statement of general policy alternatives for the Canadian government, it is less germane to the issue at hand than is the NEB report. In addition the excerpts cited by Tennessee have been taken out of context, and their real import is not supportive of Tennessee's contention.

Tennessee appears to have misunderstood the real nature of the instant inquiry. It is neither our obligation nor intention to show that the NEB will refuse export authorization in the future. Instead, what we have demonstrated is that the likelihood of Tennessee's customers realizing increased deliveries from the reserves committed under this specific Canadian advance payment agreement is too small to justify imposing the resulting carrying costs upon the consumers served by Tennessee.

Finally, Tennessee's volunteered refund condition does not rectify the clear inadequacy of its case. Tennessee concedes that it would not seek export authorization until the mid-1980's. Accordingly, a final NEB decision is perhaps ten years away. This is too long a period before refunds might be required.

II. Rate Design

(A) T–11 transportation rate

Trunkline applies for rehearing of the Commission's rejection of its proposed alteration of the T–11 rate under which it receives transportation service from Tennessee. It first seeks to clarify its proposed change in the T–11 rate. It requests in the alternative either that no storage costs being assigned to the T–11 rate (on the ground that the service is really an exchange and not transportation) or that storage costs be assigned on the Mcf/mile basis, which would mean less storage costs than under the present volumetric method. It only pursues, however, the latter request at this stage.

Trunkline contests the finding that the Commission in Opinion No. 352[14] approved the allocation of storage costs on a system-wide or volumetric basis and asserts instead that the Mcf/mile method was adopted therein. It then attempts to justify Mcf/mile allocation of storage costs by citing excerpted evidence (Exh. 15) to show that the volumetric allocation approved in Opinion No. 769 assigns the largest portion of storage costs to the shortest haul, being its own T–11 service.

We find that rehearing should be denied as to Trunkline's proposed but rejected modification of the method of allocating storage costs to transportation service, in particular the T–11 rate under which it receives such service from Tennessee. As a preliminary matter Trunkline has incorrectly interpreted Opinion No. 352 to support allocation of storage costs to transportation service upon an Mcf/mile basis. When the Commission therein (27 FPC at 215) adopted the Administrative Law Judge's conclusion that "[t]he Tennessee method for allocation of costs to Transportation Service, utilizing the mileage from the actual points of receipt of transportation gas to the points of delivery, as reasonable," (27 FPC at 310) it in fact was approving the more detailed analysis in the body of the initial decision, (27 FPC at 280–281) which dealt specifically with "the allocation of transmission costs to transportation service." Accordingly, one cannot conclude from Opinion No. 352 that the Commission in fact adopted Mcf/mile allocation of storage costs to transportation service. All that can be said is that the issue had not been raised, most likely because of the relatively insignificant amount of storage costs versus transmission costs.

The Commission has subsequently adopted the policy of allocating storage costs on a system-wide volumetric basis, and this policy has received judicial approval.[15] The rationale underlying this policy is that the entire pipeline system gains economic and operational advantages from storage; therefore, storage costs should be allocated volumetrically, not according to distance. This policy is directly applicable to the Tennessee system because the availability of storage permits the operation of its upstream transmission facilities (from Texas to the storage fields) at 100% load factor, thereby reducing the needed investment in transmission facilities, as well as maximizing volumes and lowering unit transportation costs. (Exh. B–1, p. 5). We had previously found this to be true in the specific context of Tennessee when we issued Opinion No. 352 (27 FPC at 208, 243), and the controlling facts have not changed.

Trunkline's allegations of suffering a disproportionate burden resulting from volumetric allocation of storage costs as opposed to Mcf/mile based allocation are not supported by the record. To begin with, Trunkline's comparative allocation of storage costs excerpted from Exhibit 15 cannot be viewed in a vacuum. It must be remembered that Trunkline is allocated a substantial amount of storage costs relative to the other transportation service customers because its T–11 service constitutes around 60% of Tennessee's total jurisdictional transportation volumes. (Exh. 34). Secondly, its contention of a disproportionate 60% rate increase is also misleading because Trunkline's T–11 rate was not subject to Tennessee's last major rate increase filed in 1970.[16] This occurred because its T–11 rate was initially negotiated on the basis of Trunkline paying the transmission component of Tennessee's CD–1 rate for sales in its Southern Zone, thereby not affecting Tennessee's overall earnings. (Staff Item B by Reference).

Although it appears from its petition for rehearing that Trunkline has abandoned its original position that no storage costs at all should be allocated to transportation service (under its Mcf/mile postion Trunkline would have been allocated some storage costs but less than under system-wide allocation), we shall nonetheless restate our rejection thereof. As we found above, Tennessee's storage does benefit Trunkline's T–11 service. There is no basis for treating T–11 service as unique.

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[14] *Tennessee Gas Transmission Company*, Opinion No. 352, 27 FPC 202 (1962).

[15] *United Gas Pipe Line Company*, Opinion No. 671, 50 FPC 1348, 1365 (1973), aff'd sub nom. *Consolidated Gas Supply Company, et al. v. FPC*, Nos. 74–1343 et al. (D.C. Cir. October 9, 1975) (Slip op. at 78).

[16] *Tennessee Gas Pipeline Company*, Opinion No. 619, 47 FPC 1327, 1346 (1972).

(B) STORAGE INJECTION RATE

Columbia and Consolidated, along with Brooklyn Union, contest our rejection of the proposed special storage rate, emphasizing the alleged benefits to the entire system from their storage investment. The real trust of their petitions is, however, to defer consideration of the special storage rate to the "top" case in order to be consistent with the deferral of the rate design issue.

We deny these petitions for rehearing. Our rejection of the proposed special storage rate in Opinion No. 769 is based on substantial evidence. Concerning the requested deferral these parties are not precluded fom raising the issue again in the most recent Tennesse docket. We will not, however, defer the issue. In that Tennessee's rates were designed on the same 50/50 basis when these parties made their storage investments as was adopted in Opinion No. 769 for the locked-in effective period of this proceeding, these proponents of a special storage rate have not been prejudiced.

(C) SO–4 RATE

The two customers receiving deliveries under Tennessee's SO–4 rate, Columbia and Consolidated, apply for rehearing of the Commission's change in the imputation of demand billing determinants for the SO–4 rate from using a 200% load factor to a 100% load factor. They assert that this change is not supported by the record for there is no evidence that SO–4 service is comparable to contract demand service. They argue that, instead, SO–4 service is inferior, for it is only delivered during the summer and required customer storage, as well as benefiting the entire system.

We also deny this basis for rehearing. We properly ordered that demand billing determinants for the SO–4 rate now be imputed on the basis of 100% load factor for the reasons stated in Opinion No. 769.

SO–4 service does differ from CD service in that under the former Tennessee has an obligation to deliver a fixed annual volume (Tr. 1017) while under the latter Tennessee has an obligation to deliver a daily contractual volume; (Tr. 1019) however, the record (Tr. 262) demonstrates that for purposes of the instant inquiry the two services are sufficiently similar to warrant use of the 100% load factor: there are no use restrictions upon SO–4 gas; SO–4 deliveries require transmission capacity to be provided by Tennessee; SO–4 and CD gas are of equal status in terms of Tennessee's curtailment plan; and Tennessee designed its transmission capacity to deliver SO–4 gas on an annual average day basis, which we note equates to contract demand service at 100% load factor.

(D) Berkshire's Allocation Method

Berkshire applies for rehearing of our rejection in Opinion No. 769 of its proposed modification of Tennessee's Mcf-mile allocation method. It begins by reiterating the alleged factual predicate for its Mcf-mile adjustment, that being the finding in the initial decision underlying Opinion No. 352 that the unadjusted Mcf-mile zonal allocation overcharges customers in the New York and New England zones, (27 FPC at 243–244) and the record evidence of a current annual overcharge to the New England zone of $3,000,000. Berkshire proceeds to contest our finding that its method constitutes zone-gate allocation, which has admittedly been rejected by the Commission. It contends that there is no record support for this finding upon which the Commission solely relied.

Berkshire continues by attempting to explain its proposed adjustment. It premises this adjustment upon the two sources of Tennessee's system supply 1,300 miles apart, the Texas-Louisiana gas fields and the Pennsylvania-New York storage fields, and it then contends that these two supply sources affect transmission capacity investment in that the flow gas from the producing fields supply average day requirements while storage supplies peak requirements. Berkshire contends that Tennessee's Mcf-mile method ignores these factors while it would also apply an adjusted Mcf-mile method to systemwide transmission costs. It would also change the allocation of storage costs. Berkshire concludes by arguing that, since it would continue to use Tennessee's overall rolled-in transmission costs, it has not advocated a zone-gate method of allocation.

We find that Berkshire's application for rehearing should be denied. Because of the complexity of this issue, however, we shall elaborate upon our discussion in Opinion No. 769.

We have again reviewed Berkshire's presentation (Exh. B–1, 58, 59, 60) and conclude that its proposed allocation adjustments are improper. In order to fully understand our reason for so concluding, it is first necessary to keep in mind the difference between Mcf-mile and zone-gate allocation. Under the Mcf-mile method the volumes delivered at each point within a particular zone are multiplied by the number of miles from source of supply to such point of delivery to derive a total number of Mcf-miles for each zone. Then a ratio is established between each zone's aggregate Mcf-miles and the total Mcf-miles for Tennessee's system as a whole, and this ratio is then used to allocate Tennessee's rolled-in system-wide transmission costs among the zones. By contrast under the zone-gate method the transmission costs associated with the facilities physically located within each zone are assigned to that zone as if it were a separate operating entity which purchases gas from the next upstream zone and sells it to its own customers and to the next downstream zone. The transmission costs assigned to a particular zone and the cost of gas from the contiguous upstream zone are allocated to all volumes sold in that zone or delivered to the next downstream zone on a uniform average basis.

The Commission in Opinion No. 352 adopted the Mcf-mile method upon findings "that Tennessee operates a fully integrated transmission system, that it provides essentially the same type of pipeline service in all of its zones, and that the zone boundaries do not correspond to any actual divisions in system operations or services." Neither has Berkshire contested the continued validity of this determination nor have conditions so changed on the Tennessee system to negate our prior adoption of the Mcf-mile allocation of transmission costs by which we indended to recognize the importance of the distance of transmission.

The origin of Berkshire's present position is the Commission's query in Opinion No. 352 whether the difference in load factor and load density between the New England zone and Tennessee's five other zones necessitates a special adjustment of the Mcf-mile method for the New England zone. (27 FPC at 210–211.) Berkshire now contends that the Commission in Opinion No. 769 ignored the concern expressed in the initial decision underlying Opinion No. 352 that the New England zone is being overcharged under Mcf-mile allocation. Unfortunately, Bershire has misread both the initial decision and Opinion No. 352. The Administrative Law Judge found potential for over charging the New England zone under zone-gate allocation. On the other hand he found that Mcf-mile allocation would minimize this potential because the use of system average costs would balance out individual advantages and disadvantages. (27 FPC at 244.) In addition the Commission further found that such service characteristics as load density and load factor did not differ so much between the New England zone and Tennessee's other zones as to require a special adjustment for New England, (27 FPC at 211–212) and the Commission's cost allocation 50 percent on Mcf-mile and 50 percent on historical revenue pattern (27 FPC at 213) related not to the New England issue but instead to the Commission's desire for a gradual and orderly transition to Mcf-mile allocation. Accordingly, Berkshire must advance independent justification of its Mcf-mile adjustment not relying upon Opinion No. 352.

As we have already shown in our discussion above of Trunkline's proposal, supra p. 15, it is proper for Tennessee to allocate storage costs upon a system-wide basis because all customers benefit from storage, whether upstream or downstream. Berkshire's method would require termination of that method of allocating storage costs because it would instead allocate storage costs upon actual use. (Exh. B–1, pp. 3, 9–12.) Berkshire's definition of actual use being the difference between annual average day and peak day deliveries leads to storage costs being allocated to a select group of Tennessee's customers. We have already found substantial evidence to support system-wide allocation of storage costs. The real crux of Berkshire's position is the undisputed fact that Tennessee's system is designed on an average an-

nual day basis (100 percent load factor) from supply to storage (upstream) and on a peak day basis from storage to those customers downstream from storage.[17] Such design and operational realities of the Tennessee system do not, however, warrant abandonment of the equitable and appropriate method of allocating storage costs on a systemwide basis.

Notwithstanding Berkshire's protestation to the contrary, its proposal leads inexorably to zone-gate allocation. Although it is true that Berkshire's proposal, on its face, does not exactly resemble the definition of zone-gate allocation provided above, it is not enough to accept Berkshire's Mcf-mile adjustment at face value. Examination of Berkshire's Mcf-mile adjustment for allocating transmission costs shows that it has segregated Tennessee's transmission system into the two parts of upstream and downstream of storage to compute its transmission allocation factors; however, it applies these allocation factors to the rolled-in system-wide transmission costs instead of to the costs of each of the segregated parts. The inconsistency of this method becomes apparent by comparing the end-results obtained by Berkshire. Based on its Exhibit No. 60, Berkshire's method results in a weighted average unit cost per Mcf per 100 miles allocated to the New England Zone of 2.05 cents, Central Zone of 2.12 cents and, Southern Zone of 2.27 cents (Tr. 690–691), even though the New England Zone's load factor is lower than either the Central or Southern Zones (Tr. 685–686). The New England Zone's lower unit cost and lower load factor flow from this inconsistency because under the proper matching of allocation factor and costs, load factor is inversely proportionate to unit cost, unlike the present direct relation found in Berkshire's method.

When we remove this inconsistency in Berkshire's adjustment and accordingly segregate the system for purposes of both computing allocation factors and cost, the impact of this Mcf-mile adjustment approximates the impact of using zone-gate allocation. Berkshire has neither adequately demonstrated that the New England zone is being unfairly treated under the present allocation method nor justified divergence from the well-established treatment of Tennessee as an integrated system using rolled-in system-wide transmission costs.

III. Depreciation

Only Tennessee seeks rehearing of the Commission's increase of its book depreciation rate from 3.6 percent to 4 percent. Tennessee had originally proposed an increase to 5.75 percent and maintains that position on rehearing. Tennessee makes a number of arguments, many of which the Commission has already considered and rejected in Opinion No. 769. It first attacks Commission adoption of Staff's 4 percent composite depreciation rate. It views Staff's presentation as deficient for two reasons. To begin with, Tennessee alleges that Staff failed to include annual interim retirement losses in its composite rate, and it contends that an allowance of .5 percent for interim retirements is shown on the record. Tennessee views Staff's addition of this undisputed .5 percent interim retirement rate to the reserve for depreciation for interim retirements as inadequate for such treatment unreasonably defers recoupment of such costs to future ratepayers. Tennessee also asserts that Staff has added an increment to the composite depreciation rate for interim retirements in many other pipeline rate proceedings, that the Commission has previously recognized such treatment of interim retirements, and that this would increase Staff's composite rate to 4.5 percent.

Tennessee moreover attacks Staff's 4 percent rate on the ground that Staff's own average remaining life study clearly demonstrates need for a 5.15 percent composite deprecation rate. Specifically, Tennessee contends that Staff failed to use the remaining lives from one study in its computation of the 4 percent composite rate, and moreover admittedly employed the wrong schedule of major retirements, the correction of these two mistakes allegedly resulting in a 5.15 percent composite depreciation rate. Concerning the first of two alleged Staff mistakes, Tennessee seeks to refute Staff's justification for not using its average remaining lives study, which is that such study reflects future plant additions which should not be charged to current customers.

Tennessee then asserts that the Commission failed to comply with Section 9 of the Natural Gas Act for, by noting the possible inadequacy of Staff's 4 percent rate, the Commission did not find that the rate set is "proper and adequate" as per Section 9. Tennessee in essence argues that the Commission could not set a depreciation rate which it found might not be adequate. It refers specifically to the Commission's expressed doubt as to the supplemental supplies relied upon by Staff, and it concludes that by leaving the rate at 4 percent the Commission acted inconsistently with Opinion No. 734.[18]

Tennessee proceeds to attack the Commission's rejection of the unit of production method for all other plant than gathering, specifically asserting conflict with Opinion No. 762.[19] Tennessee then recites its evidentiary presentation supporting the unit of production method. Finally, Tennessee contends that evidentiary presentation underlying its unit of production approach and 5.75 percent composite depreciation rate comport with the *Memphis* case,[20] upon which the Commission relied in Opinion No. 769.

We find that rehearing should be denied as to the depreciation rate issue, and accordingly, Tennessee's composite depreciation rate should remain for this proceeding at 4 percent. Based upon the record before us only the Staff's depreciation presentation leads to a proper and adequate result. Although we found in Opinion No. 769, slip Op. at 7, that due to post-record events regarding the likelihood of increased supplemental supplies the 4 percent depreciation rate "could well be inadequate," from the perspective of this record 4 percent is adequate. We feel justified in limiting our analysis to record evidence because the instant proceeding is "locked-in" and Tennessee's future proper and adequate depreciation rate is presently being litigated in several subsequent proceedings, including RP75–13 and RP75–113. Tennessee's incantation of the Section 9 "proper and adequate" depreciation rate provision is misplaced. Presently before the Commission is a Section 4 rate change proceeding in which Tennessee has not met its burden of proving that the 5.75 percent composite rate sought is just and reasonable. Staff's study provides substantial evidence to increase Tennessee's rate from 3.6 percent to 4 percent. Even if the Commission were to act sua sponte pursuant to Section 9, any conceivable depreciation rate increase would affect rates prospectively only. We feel confident that Section 9 will be satisfied by the current adjudication in Tennessee's three subsequent rate change proceedings. Traditional and supplemental gas supply evidence of more current quality is available therein. A determination of "proper and adequate" depreciation rates in the context of a rate change proceeding, as contrasted to a pure accounting matter, is circumscribed by the procedures of Section 4 of the Natural Gas Act.

Before addressing Tennessee's numerous arguments, we point out that we do not have a burden of proof vis-a-vis each and every aspect of Staff's depreciation case, as Tennessee would suggest. Instead we have reviewed the record as a whole and find that Staff's 4 percent composite depreciation rate reaches the correct result for the effective period of the rates in question.

We reject Tennessee's first contention that Staff's 4 percent composite rate should at a minimum be increased to 4.5 percent to account for .5 percent annual interim retirements, which Staff allegedly ignored. Interim or normal retirements are all retirements from plant which occur in the course of normal operations due to normal forces, being either physical causes like wear and tear

[17] In light of this design fact Berkshire would allocate transmission and storage costs as follows: Upstream zones would multiply average day takes of each customer therein by the transportation distance. Downstream zones would multiply average day takes by the distance from supply to storage and add that to the product of multiplying peak day takes by the distance from storage to delivery.

[18] *Columbia Gulf Transmission Company*, Opinion No. 734, Docket Nos. RP73–85 and RP73–86, issued June 12, 1975. (Slip Op. at 24).

[19] *Natural Gas Pipe Line Company of America*, Opinion No. 762, Docket No. RP74–96, issued May 21, 1976 (Slip Op. at 28–29).

[20] *Memphis Light, Gas and Water Division v. FPC*, 504 F.2d 225 (D.C. Cir. 1974).

or functional causes like obsolescence, inadequacy or requirements of public authorities. We have consistently found that interim retirements should be reflected in the depreciation rate, and the record herein indicates that an interim retirements rate of .5 percent is reasonable (Exh, S–6, p. 7). Tennessee expresses concern for it could not find the inclusion of this .5 percent interim retirement rate in the 4 percent composite depreciation rate. As we shall explain, while Staff's depreciation study (Exh. 46) did not specifically identify the interim retirements, the ultimate result reached by Staff is equivalent to the result that would have been reached if it had identified the interim retirements by name. In order to demonstrate this fact we shall focus upon the major component of Tennessee's plant, the main transmission line to compressor station No. 219.

Although Staff did not separate out interim retirements, we find that the methodology employed by Staff, which resulted in a more rapid write-off of plant than would normally occur, necessarily encompasses interim retirements. To begin with, it is clear from Exhibit 46, Schedule No. 5 that, in determining a major retirement pattern for the mainline to station No. 219 at 5 percent per year, Staff was directly relating retirements to declining average day deliveries or throughput on approximately a one to one ratio. (Exh. S–9, pp. 26–27). Staff was very conservative in this approach which results in a more rapid rate of depreciation than would normally be allowed. We know that this 5 percent rate of major retirements is accelerated because retirements and deliverability do not correspond on a one-to-one basis. Plant is retired less rapidly than deliverability declines because a pipeline company will in general first retire compression which is proportionately less expensive than pipe. Accordingly, by keying major retirements to declining average day throughput Staff in effect included an increment for interim retirements.

A second aspect of Staff's study accentuates our certainty that interim requirements have been adequately represented in the 4 percent depreciation rate. Exhibit 46, Schedule No. 5 indicates that in calculating the 16 year average remaining life for Tennessee's main line to Station No. 219 Staff took the extremely conservative stance of using only a 10 percent minimum back-bone system. The effect of this Staff approach is to increase the depreciation rate. If Staff had employed a greater back-bone system, the result would have been more dollar years, which when divided by total retirements would yield an average remaining life of more than the 16 years found by Staff, which in turn when employed in Column 6 of Exhibit 46, Schedule No. 6, Sheet 2 to be divided into depreciable base (Column 5) would result in less annual depreciation expense (Column 7) and thereby lead to a lower depreciation rate (Column 10). Staff would have been justified in employing a greater minimum back-bone system, but in choosing 10 percent we feel that interim retirements are necessarily compensated in the 4.18 percent employed by Staff for the mainline to Station No. 219. (Exh. 46, Schedule No. 1).

Our conclusion that interim retirements were adequately considered is further buttressed by Appendix B to Staff's brief opposing exceptions filed in this proceeding on June 3, 1975. We note from Columns 5 and 6 therein that Staff broke down retirements into normal (interim) and major, and yet the depreciation rate for the three year period from 1972–1974 for the mainline to Station No. 219 was only 4.04 percent, which is below the 4.18 percent employed by Staff in reaching the composite rate of 4 percent. While this is not evidence per se, it confirms what we have already learned from the record.

We also reject Tennessee's contention that Staff's studies demonstrate that the composite rate should be 5.15 percent. Tennessee relies in this regard upon Exhibits 46, Schedule 6, Sheets 1, 2 and 3 in which Staff ran through some computations concerning the three segments of Tennessee's transmission system but did not treat the average remaining lives in the same fashion as it did elsewhere. It also relies upon a Staff statement made on brief that Staff employed the wrong schedule of major retirements. The essence of its argument is that, while Staff calculated average remaining lives, its depreciation rates of 2.46 percent, 4.18 percent, and 3.27 percent for the distribution loop, mainline to Station No. 219, and Texas mainline respectively were erroneously the current rates, not the average rates of 3.10 percent, 4.98 percent, and 4.32 percent respectively. It views this failure to employ the average rate unfair to future ratepayers.

Tennessee, however, misconstrues Exhibit 46, Schedule 6, Sheets 1, 2, and 3. It is clear to us that these sheets were employed by Staff to calculate the current depreciation rates, which it did by averaging the initial three year period of 1973 through 1975. This was a shorthand calculation since Staff correctly felt that only the current, not average, rate was important. The average rates for these three transmission segments shown in these sheets are patently inaccurate because Staff for purposes of convenience did not relate the average remaining lives to the 28 year economic life which is central to Staff's study. (Exh. 46, Schedule Nos. 4 and 5). Again referring to Appendix B of Staff's brief opposing exceptions, our conclusion above is born out as we notice that for the mainline to Station No. 219 segment the average rate is 4.21%, not the 4.98% shown in Exhibit 46, Schedule No. 6, Sheet 2. The reason for this substantial difference is that in Appendix B Staff continued its study for the full 28 year economic life, that is to the year 2000. We note that this average rate of 4.21% is so close to Staff's current rate of 4.18% for this segment (Exh. 46, Schedule 1) that Tennessee's contention that Staff erred in not using an average instead of current rate is for all intents and purposes moot under the facts of this case. Moreover, we feel that the question of average versus current depreciation rate is more appropriately addressed in Tennessee's more recent filings, of which there have been three. The question of equity between present and future ratepayers is not framed well in the present context of determining refunds for a locked-in 15 month period.

Tennessee also misconstrues Staff's statement on brief about retirement schedules. Although Staff conceded that it should have employed the same retirements schedule in computing the depreciation rate for the mainline to station No. 219 as is used in computing the average remaining life, it accurately concluded that the 4.18% depreciation rate for the mainline to Station No. 219 is nonetheless correct because the retirement schedule it employed for calculating the 16 year average remaining life included no such retirements until 1978 while the 4.18% is the 1973–1975 average. (Exh. 46, Schedule No. 5).

We have already concluded that Section 9 of the Natural Gas Act has not been contravened by our establishment in Opinion No. 769 of a composite depreciation rate of 4%. In addition we do not see this result as inconsistent with Opinion No. 734, supra note 18, which is clearly distinguishable: 1.) Although the Commission therein adopted a rate of 3.75% for Columbia Gas' transmission and underground storage facilities and accordingly declined to use Staff's 3.65% rate, the controversy was merely one of degree of gas supply decline since Staff, the pipeline, and the Commission had all concluded that the record supported use of the unit of production method. In the instant case, however, Staff's evidence as to supplemental supplies and gas reserves was introduced to refute applicability of the unit of production method in the first instance. 2.) Opinion No. 734 arose from a settlement while the instant proceeding entails a fully litigated record. 3.) The difference between Staff's 3.65% proposed rate and the 3.75% rate found in the settlement are minimal compared to the disparity between Staff's 4% rate and Tennessee's 5.75% proposal. In Opinion No. 762 [21] the Commission stated that the conclusion in Opinion No. 734 (the evidence on non-traditional sources of supply was too speculative for use in setting Columbia's depreciation rate) "was not intended to mean that evidence on non-traditional gas supply sources was not relevant; rather, it described the limitations of the existing record upon which the Commission was forced to rely."

Tennessee's reliance upon Opinion No. 762, *supra* note 21, is likewise misplaced. Tennessee alone presented a unit of production study herein, and it is clearly deficient under the court mandate in Memphis, supra note 20. On the other

[21] Natural Gas Pipe Line Company of America, Opinion No. 762, Docket No. RP74–96, issued May 21, 1976, (Slip Op. at 28).

hand in Opinion No. 762 the Commission had a better unit of production study prepared by the pipeline, along with a unit of production study prepared by Staff and also two straight-line depreciation studies, which tend to support the settlement depreciation rate. Finally, our rejection of Ni-Gas' position in Opinion No. 762 is based upon the conclusion that it is unreasonable and unnecessary to "hypothesize a figure representing all possible future volumes to pass through (the pipeline's) system during the remainder of its physical or economic life. * * *" This is significantly different from the instant proceeding in which Tennessee failed to give adequate consideration to supplemental supplies in general.

Finally, we remain convinced that Tennessee's unit of production presentation does not comport with the court's mandate in Memphis, supra note 20. Our discussion on this point in Opinion No. 769 is correct, and we rely thereupon. We have already considered Tennessee's depreciation evidence cited in its application for rehearing and have found it legally deficient. It is not enough for Tennessee at this stage to cite conclusory statements by its witness that it assumed future supply additions and to note that in subsequent Tennessee rate change proceedings Staff has also presented a unit of production study: Our decision herein is not against the validity of the unit of production concept per se but is instead against the quality of Tennessee's evidentiary presentation in this specific case. In its application for rehearing Tennessee seems to forget that it has the burden of proof under Section 4 of the Natural Gas Act, as well as forgetting the legal distinction between some evidence and substantial evidence.

IV. Rate of Return

PSCNY alone seeks rehearing of the rate of return prescribed in Opinion No. 769. It first expresses doubt that a valid Commission decision was rendered as to rate of return in that only Chairman Dunham and Commissioner Watt supported the 13.75% return on common equity prescribed therein, Commissioner Holloman dissenting to both rate of return and front-end advance payments and Commissioner Smith concurring in Opinion No. 769 but opposing the 13.75% return on equity. PSCNY also opposes the specific 13.75% return on equity allowed in Opinion No. 769, although it restricts its argument to the unreasonableness of this rate of return in the instant "locked-in" context. It primarily relies upon the fact that in Opinion No. 762, supra note 21, the Commission allowed Natural Gas Pipeline a 13.5% return on equity for a locked-in period ending eight months after the effective period of Tennessee's rates in this proceeding. PSCNY sees this 13.5% rate of return on equity as the ceiling for Tennessee. It also attacks the lack of financial and operational comparison in Opinion No. 769 between Tennessee and other pipelines of similar risk.

We find that PSCNY's application for rehearing of the rate of return allowance should be denied, and therefore we retain the 9.25% overall rate of return and 13.75% return on common equity prescribed in Opinion No. 769. To begin with, Opinion No. 769 is a legally sufficient Commission decision. A majority voted in favor of the overall result reached. Commissioners Smith's and Holloman's opposition to the rate of return allowance does not vitiate this majority vote, as Commissioner Smith recognized in his concurring opinion.

As to PSCNY's substantive attack on the 13.75% return on common equity, this rate of return was properly within the zone of reasonableness between 12.5% and 14%. Sufficient differences exist between the operations and finances of Tennessee and Natural Gas Pipeline to warrant the 0.25% gap between their respective returns on common equity allowed in Opinion Nos. 769 and 762.

The Commission further finds: The assignments of error and grounds for rehearing set forth in the applications for rehearing of Opinion No. 769 by Tennessee, Berkshire, Trunkline, INGAA, Transco, Columbia and Consolidated, Brooklyn, and PSCNY present no facts or legal principles that would warrant any change in or modification of the Commission's Opinion No. 769.

The Commission orders: The applications for rehearing filed by Tennessee, Berkshire, Trunkline, INGAA, Transco, Columbia and Consolidated, Brooklyn, and PSCNY are hereby denied.

By the Commission. Commissioner Smith, concurring, filed as part of the original document. Commissioner Holloman, dissenting, filed as part of the original document.

Kenneth F. Plumb,
Secretary.

[FR Doc.77-15899 Filed 6-3-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of July 1977:

NAME: Long-Term Care Advisory Committee.

DATE AND TIME: July 14-15, 1977, 9 a.m.

PLACE: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open for entire meeting.

PURPOSE: The Committee represents the interests of the people in the United States in providing advice and guidance to the Administrator, Health Resources Administration, and the Division of Long-Term Care on the identification of National problems, unmet needs, and issues to develop research and educational strategies to improve the quality of life and health care for persons requiring long-term care.

AGENDA: Agenda items for the meeting include: (1) a report from the Director, Division of Long-Term Care; (2) discussion of programmatic issues; (3) presentations on research and development issues; and (4) development of a strategy for research and development in the long-term care field.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. K. Mary Straub, Division of Long-Term Care, Room 11A-33, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301-443-3346.

Agenda items are subject to change as priorities dictate.

Dated: May 26, 1977.

James A. Walsh,
Associate Administrator for Operations and Management.

[FR Doc.77-15851 Filed 6-3-77;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

Meetings

Notice of the establishment of the Advisory Committee on National Health Insurance Issues was published in the April 21, 1977, Federal Register (Vol. 42, No. 77, Pages 20675 and 20676).

Pursuant to Pub. L. 92-463, notice is hereby given of one meeting of the Advisory Committee to be held on Friday, June 17, 1977, and another on Saturday, June 18, 1977.

The June 17 meeting will be held in Los Angeles, California, from 11:00 a.m. to 12:30 p.m. and from 3:00 p.m. to 5:30 p.m. at a location not yet determined. The agenda will include discussion of the problems of the urban poor and public hospitals.

The June 18 meeting will be held in Oakland, California, from 11:00 a.m. to 12:30 p.m. and from 2:00 p.m. to 5:30 p.m. at a location not yet determined. Agenda items will include health maintenance organizations, preventive services, and consumer participation.

Both meetings will be open to the public.

Further information on these meetings may be obtained from SueZanne Hagans in Washington, D.C., (202) 472-3026 or from Bob Fouts in San Francisco (415) 556-2246.

Dated: June 2, 1977.

Hale Champion,
Under Secretary.

[FR Doc.77-16007 Filed 6-2-77;12:52 pm]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-77-759]

TASK FORCE ON THE FUTURE OF FHA

Meetings

AGENCY: Department of Housing and Urban Development.

ACTION: Notice is given of future meetings of the Task Force on the Future of FHA.

SUMMARY: Meetings are scheduled June 21, 22 and 30 and the agenda for each meeting is stated.

DATES: June 21, 1977, 9:00 a.m.; June 22, 1977, 9:00 a.m.; June 30, 1977, 9:00 a.m.

ADDRESS: Committee Management Officer Douglas C. Brooks, Room 3260, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Douglas C. Brooks, 202-755-9086
or
Donald K. McLain, 202-755-5333.

SUPPLEMENTARY INFORMATION: Meetings of the Task Force on the Future of FHA have been scheduled for the dates and times indicated above. All meetings will be held in Room 2135 at the address indicated above.

The agenda for the June 21 meeting includes the following:

a. In-depth analysis of roles proposed for FHA not covered in the initial meeting of the Task Force.

b. Summary discussion of all roles proposed for FHA.

The agenda for the meeting June 22 includes the following:

a. Continuation of summary discussion of all roles proposed for FHA.

b. Discussion of the substance of the report to be issued by the Task Force.

The agenda for the meeting June 30 includes the following:

a. Review and discussion of the draft Task Force Report.

b. Discussion of such other matters as may be appropriate.

The meetings of the Task Force will be open to the public.

Issued at Washington, D.C., May 31, 1977.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc.77-15860 Filed 6-3-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

INDIAN TRIBES PERFORMING LAW ENFORCEMENT FUNCTIONS

Determination—Amendment

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM2.

Section 601(d), Title I of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, 42 U.S.C. 3781 (d), placed responsibility on the Secretary of the Interior to determine those Indian tribes which perform law and order functions. The listing published beginning on page 13758 of the May 25, 1973 FEDERAL REGISTER (38 FR 13758) identified all eligible Indian tribes and the specific law and order functions they have responsibility to exercise. Determination concerning Indian tribes not listed are made on an individual basis upon application by such tribes under the provisions of the Regulations of the Law Enforcement Assistance Administration, Department of Justice. The Secretary's authority to make such determinations was delegated to the Commissioner of Indian Affairs by 230 DM1.

It has been determined by the Commissioner of Indian Affairs that the Umatilla Tribe of Orgeon has responsibility for exercising all of the six laws and other functions shown in the published listing.

Therefore, the listing published beginning on page 13758 of the May 25, 1973, FEDERAL REGISTER (38 FR 13758) and last amended at page 43932 of the September 24, 1975, FEDERAL REGISTER (40 FR 439302) is further amended by adding the entry for the Umatilla Tribe of Orgeon to read as follows:

Tribal entities recognized by the Federal Government and listed by State	To employ tribal police	To establish a tribal court	To adopt a tribal law and order code	To undertake cor rection functions	To undertake programs aimed at preventing adult crimes and juvenile delinquency	To undertake adult and juvenile rehabilitation programs
Oregon Umaltilla.....	X	X	X	X	X	X

RAYMOND V. BUTLER,
Acting Deputy Commissioner, of Indian Affairs.

[FR Doc.77-15681 Filed 6-3-77;8:45 am]

[Ordinance No. 23-76]

GILA RIVER INDIAN COMMUNITY, ARIZ.

Ordinance Licensing and Regulating the Sale and Consumption of Spirituous Liquor Within the Exterior Boundaries of the Gila River Indian Reservation

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938) and in accordance with the Act of August 15, 1953 Public Law 277, 83rd Congress, 1st Session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Gila River Indian Reservation, Arizona, was adopted August 4, 1976 by the Gila River Indian Community which has jurisdiction over the area of Indian country included in the Ordinance, reading as follows:

ARTICLE I. DEFINITIONS

In this ordinance, unless the context otherwise requires: 1. "Beer" means any beverages obtained by the alcoholic fermentation, infusion or decoction of barley malt, hops, or other ingredients not drinkable, or any combination of them.

2. "Broken package" means any container or spirituous liquor on which the United States tax seal has been broken or removed, or from which the cap, cork, seal, or tab, placed thereupon by the manufacturer has been removed.

3. "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made to members only:

a. A post, chapter, camp or other local unit composed solely of veterans and its duly recognized auxiliary, and which is a post, chapter, camp or other local unit composed solely of veterans which has been chartered by the Congress of the United States for patriotic, fraternal or benevolent purposes, and which has, as the owner, lessee or occupant operated an establishment for that purpose in this state.

b. A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization which has as the owner, lessee or occupant operated an establishment for fraternal purposes within this Reservation. An American national fraternal organization as used in this subdivision shall actively operate in not less than thirty-six states or have been active continuous existence for not less than twenty years.

c. A hall or building association of such a local unity mentioned in subdivisions (a) and (b), all of the capital stock of which is owned by the local unit or the members, and which operates the club room facilities of the local unit.

d. A golf club has more than fifty bona fide members which owns, maintains or operated a bona fide golf links together with a club house.

e. A social club which has more than fifty bona fide members who are actual residents of the county in which it is located, which owns, maintains or operates club quarters, and which is authorized and incorporated to operate as a nonprofit club under the laws of this Community, and has been continuously incorporated and operating for a period of not less then one year. The club shall have had, during such period of one year, a bona fide membership with regular meetings conducted at least once each month and the membership shall be and shall have been actively engaged in carrying out the objectives of the club. The club's membership shall consist of bona fide dues-paying members paying at least six dollars per year, payable monthly, quarterly or annually, which have been

recorded by the secretary of the club, and the members at the time of application for a club license shall be in good standing having for at least one full year paid dues. At least fifty-one per cent of the members shall have signified their intention to secure a social club license by personally signing a petition, on a form prescribed by the Committee, which shall also include the correct mailing address of each signer. The petition shall not have been signed by a member at a date earlier than thirty days prior to the filling of the petition. It is the intent of this paragraph that a license shall not be granted to a club which is, or has been, primarily formed or activated to obtain a license to sell liquor, but solely to a bona fide club, where the sale of liquor is incidental to the main purposes of the club.

4. "Committee" means the Government and Management Committee, a standing committee of the Gila River Indian Community Council.

5. "Community" means the Gila River Indian Community Council.

6. "Company" or "association" when used in reference to a corporation includes successors or assigns.

7. "Council" means the Gila River Indian Community Council.

8. "License" means a license issued pursuant to the provisions of this ordinance.

9. "Off-sale retailer" means any persons operating a bona fide regularly established retail liquor store selling spirituous liquors, wines and beer, and any established retail store selling commodities other than spirituous liquors and engaged in the sale of spirituous liquors only in the original package, to be taken away from the premises of the retailer and to be consumed off the premises.

10. "On-sale retailer" means any person operating an establishment where spirituous liquors are sold in the original container for consumption on or off the premises and in individual portions for consumption on the premises.

11. "Premises" or "licensed premises" shall mean the area from which the licensee is authorized to sell, dispense, or serve spirituous liquors under the provision of the license.

12. "Person" includes partnership, association, company or corporation, as well as a natural person.

13. "Reservation" means the Gila River Indian Reservation located in the State of Arizona.

14. "Sell" includes soliciting or receiving an order for, keeping or exposing for sale, delivering for value, peddling, keeping intent to sell and trafficking in.

15. "Spirituous liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor, malt beverage, absinthe or compound or mixture of any of them, or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent of alcohol by volume.

16. "Vehicle" means any means of transportation by land, water, or air, and includes everything made use of in any way for such transportation.

17. "Wine" means the production obtained by the fermentation of grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage fortified with grape brandy and containing not more than twenty-four percent of alcohol by volume.

ARTICLE II.

SECTION 1

The Gila River Indian Community Court is vested with original jurisdiction to hear and decide all matters arising pursuant to this ordinance.

SECTION 2

A. Liquor license applications shall be filed with the Government and Management Standing Committee of the Gila River Indian Community Council. The Government and Management Standing Committee shall review all liquor license applications and provide the Community Council with a recommendation as to the disposition of all applications.

B. All applications filed with the Committee shall be referred to the District where the liquor license is to do business, except those applications which propose to be located within the corridor established by Ordinance No. 14–73, which extends one-half mile on either side of the centerline of Interstate 10, where said highway crosses the Reservation. Once evidence of the two-thirds affirmative vote by members of the District attending a meeting called for the specific purpose of approving a liquor license application is provided to the Committee by the District concerned, a recommendation as to the disposition of said application shall be provided to the Community Council by the Committee.

C. Any person desiring a Community Liquor License to manufacture, sell or deal in spirituous liquors within the exterior boundaries of the Gila River Indian Reservation shall secure a Community Business License before being issued a Community Liquor License.

D. Issuance of a Community Liquor License shall be contingent upon the applicant obtaining a liquor license of the same type from the Department of Liquor Licenses and Control of the State of Arizona.

SECTION 3

The license shall be to manufacture, sell or deal in spirituous liquors only at the place and in the manner provided therein, and a separate license shall be issued for each specific business. Each license shall specify the following:

A. The particular spirituous liquors which the licensee is authorized to manufacture, sell or deal in.

B. The place of business for which issued.

C. The purpose for which the liquors may be manufactured or sold.

SECTION 4

No Community license shall be transferred without the prior written consent of the Gila River Indian Community Council.

SECTION 5

A. A fee shall accompany an application for a Community license or transfer of a Community license, or in case of renewal said fee shall be paid in advance. Every license shall expire December 31 of each year. An application fee for an original license shall be returned to the applicant if the application is denied.

B. Application fees for an original Community license shall be:

1. Distiller's license, one hundred dollars ($100).

2. Brewer's license, one hundred dollars ($100).

3. Winer's license, one hunderd dollars ($100).

4. Wholesaler's license to sell all spirituous liquors, one hundred dollars ($100).

5. Wholesaler's license to sell wine and beer, one hundred dollars ($100).

6. On-sale reailer's license to sell all spirituous liquors by individual portions and in the original containers, one hundred dollars ($100).

7. On-sale retailer's license to sell wine and beer by individual portions and in the original containers, one hundred dollars ($100).

8. On-sale retailer's license to sell beer by individual portions and in the original containers, one hundred dollars ($100).

9. Off-sale retailer's license to sell all spirituous liquors, one hundred dollars ($100).

10. Off-sale retailer's license to sell wine and beer, one hundred dollars ($100).

11. Off-sale retailer's license to sell beer, one hundred dollars ($100).

12. Club license issued in the name of a bona fide club qualified under this chapter to sell all liquors on-sale, one thousand dollars ($1,000).

13. Hotel-motel license issued as such to sell and serve spirituous liquors solely for consumption on the licensed premises of the hotel or motel, one thousand dollars ($1,000).

14. Restaurant license issued as such to sell and serve spirituous liquors solely for consumption on the licensed premises of the restaurant, one thousand dollars ($1,000).

D. If application for a license is made on or after July 1 in any year, one-half of the annual license fee shall be changed.

E. The annual renewal fees for Community license shall be:

1. Distiller's license, three hundred fifty dollars ($350).

2. Brewer's license, three hundred fifty dollars ($350).

3. Winer's license, one hundred fifty dollars ($150).

4. Wholesaler's license to sell all spirituous liquors, two hundred fifty dollars ($250).

5. Wholesaler's license to sell wine and beer, one hundred dollars ($100).
6. On-sale retailer's license to sell all spirituous liquors by individual portions and in the original containers, one hundred fifty dollars ($150).
7. On-sale retailer's license to sell wine and beer by individual portions and in the original containers, one hundred fifty dollars ($150).
8. On-sale retailer's license to sell beer by individual portions and in the original containers, seventy-five dollars ($75).
9. Off-sale retailer's license to sell all spirituous liquors, fifty dollars ($50).
10. Off-sale retailer's license to sell wine and beer, fifty dollars ($50).
11. Off-sale retailer's license to sell beer, twenty-five dollars ($25).

F. Where the business of an on-sale retail licensee is seasonal, extending for periods of less than six (6) months in any calendar year, the licensee may designate the periods of his operation, and a license may be granted for periods less than six (6) months. The fees for any license granted pursuant to this subsection shall be one-half the fees prescribed in subsection B, C, and E of this section.

G. Transfer fees from person-to-person shall be:

1. Distiller's license, five hundred dollars ($500).
2. Brewer's license, five hundred dollars ($500).
3. Winer's license, three hundred dollars ($300).
4. Wholesaler's license to sell all spirituous liquors, five hundred dollars ($500).
5. Wholesaler's license to sell wine and beer, two hundred dollars ($200).
6. On-sale retailer's license to sell all spirituous liquors by individual portions and in the original containers, three hundred dollars ($300).
7. On-sale retailer's license to sell wine and beer by individual portions and in the original containers, one hundred fifty dollars ($150).
8. On-sale retailer's license to sell beer by individual portions and in the original containers, fifty dollars ($50).
9. Off-sale retailer's license to sell all spirituous liquors, one hundred dollars ($100).
10. Off-sale retailer's license to sell wine and beer, one hundred dollars ($100).
11. Off-sale retailer's license to sell beer, fifty dollars ($50).

H. Transfer fees from place-to-place shall be twenty-five dollars ($25).

SECTION 6

Disposition of fees and fines: All license fees received, and all money fines imposed pursuant to this Ordinance, shall be deposited in the general account of the Gila River Indian Community, unless otherwise directed by the Council.

SECTION 7

Exemptions: The provisions of this Ordinance shall not apply to drugstores selling spirituous liquors only upon prescription or to ethyl alcohol intended for use or used for the following purposes:

1. Scientific, chemical, mechanical, industrial and medicinal purposes.
2. Use by those authorized to procure spirituous liquor or ethyl alcohol tax-free, as provided by the acts of Congress and regulations promulgated thereunder.
3. In the manufacture of denatured alcohol produced and used as provided by the acts of Congress and regulations promulgated thereunder.
4. In the manufacture of patented, patent, proprietary, medicinal, pharmaceutical, antiseptic toilet, scientific, chemical mechanical and industrial preparations or products, unfit and not used for beverage purposes.
5. In the manufacture of flavoring extracts and unfit for beverage purposes.

ARTICLE III

SECTION 1

A. Every person having in his possession or custody or under his control a still or distilling apparatus shall register it with the Committee under the rules and regulations the Committee may prescribe, and every still or distilling apparatus not so registered, together with all mash, wort or wash, for distillation or for the production of spirits or alcohol, and all finished products, together with all personal property in the possession or custody of, or under the control of any person, which may be used in the manufacture or transportation of spirituous liquors, and which is found in the building or in any yard or enclosure connected with the building in which the unregistered still or distilling apparatus is located, shall be forfeited to the Community.

B. The still, distilling apparatus, mash, wort, wash or finished products shall forthwith be destroyed by an agency of the Committee, or other peace officer, and all personal property forfeited to the Committee shall be sold at public auction to the highest bidder for cash on five days notice.

C. The notice shall be posted at the Courthouse and at the Service Center in the District in which the personal property was seized. The expenses of the publication and the expenses of the sale shall be deducted from the proceeds of the sale; and any balance shall be paid into the general fund of the Community.

SECTION 2

No on-sale licensee shall lock or permit to be locked the front entrance to his licensed establishment until all persons other than the licensee and his employees on duty have left the premises.

SECTION 3

No licensee shall change the name of his licensed business without first obtaining written permission from the Committee. No licensee shall use a name, for his licensed business, until such name has been approved in writing by the Committee. The licensee shall also submit his license for change within fifteen (15) days of the written approval of such change of name.

SECTION 4

A. No liquor bottle or other container authorized by the laws of the United States or any agency thereof shall be reused for the packaging of distilled spirits, nor shall the original contents, or any portion of such original contents, remaining in a liquor bottle or other such authorized container, be increased by the addition of any substance.

B. No licensee shall reuse, sell or give away empty spirituous liquor bottles contrary to Federal laws and regulations.

SECTION 5

All licensees shall keep for a period of not less than two (2) years all invoices, records, bills and other papers and documents relating to the purchase, sale and delivery of alcoholic beverages. Such records and papers shall be kept in such condition of storage as to be easily accessible to the Committee or employees of the Community for examination or audit.

SECTION 6

A licensed place of business may be required to close its doors and stop sale of alcoholic beverages to the public or allow any person on the premises, with the exception of the owners, employees and officers of the law, during the time it may appear to the Committee that violence might occur.

SECTION 7

A. All persons having a legal or equitable interest in a spirituous liquor license shall file with the Committee a statement of such interest on a form prescribed and furnished by the Committee. Notice of termination of such interest shall be filed in writing by the interest holder upon final determination of the interest. Interest holders shall immediately file amended statements presently on file.

B. The Committee may periodically, by notice to the holders of interests filed under this regulation, require such interest holders to verify in writing to the Committee that the statement presently on file is currently correct and accurate and, if not, such interest holder shall immediately file an amended statement or termination notice. If no response is received by the Committee within thirty (30) days of the mailing of such notice, the interest shall be deemed terminated.

C. All persons having filed statements of interest in accordance with this regulation and the statute shall be given notice of all matters and/or action affecting or regarding the spirituous liquor license in which they have an interest.

D. Notice as required in (C) above shall be fully effective by mailing a copy thereof by registered or certified mail in a sealed envelope with postage prepaid and addressed to such person at his address as shown by the statement on file with the Committee. Service of such notice shall be complete when deposited in the United States mail.

E. All interest holders who are entitled to receive notice as provided for hereinabove shall have the right to appear and participate in person and through coun-

sel in any hearing held before the Committee affecting the subject spirituous liquor license as his interests may appear.

F. The statement of legal or equitable interest shall allow the person filing said statement to participate in the proceedings and shall not in any manner bind the Community concerning the matter under construction.

ARTICLE IV. UNLAWFUL ACTS

It is unlawful: 1. For any person, whether as principal or agent, clerk or employee, whether for himself, or for any other person, or for any body corporate, or as officer of any corporation, or as a member of any firm or co-partnership or otherwise to buy for resale, sell or deal in spirituous liquors on and within the exterior boundaries of the Gila River Indian Reservation, Arizona, without first obtaining all necessary Federal, State and County licenses including, but not restricted to a Federal license to trade with the Indians issued pursuant to Title 25, Code of Federal Regulations, a license duly issued by the Arizona State Department of Liquor License and Control, and a valid license issued by the Gila River Indian Community.

2. For a person to sell or deal in alcohol for beverage purposes without first complying with the provisions of this Ordinance.

3. For a distiller, winer, brewer or wholesaler to sell, dispose of or give spirituous liquor to any persons other than a licensee, except in sampling wares as may be necessary in the ordinary course of business.

4. For a distiller, winer or brewer to require a wholesaler to offer or grant a discount to a retailer, unless the discount has also been offered and granted the wholesaler by the distiller, winer or brewer.

5. For a distiller, winer or brewer to use a vehicle for trucking or transportation of spirituous liquors unless there is affixed to both sides of the vehicle a sign showing the name and address of the licensee and the type and number of his license in letters not less than three and one-half inches in height.

6. For a person to take or solicit orders for spirituous liquors unless he is a registered salesman or solicitor of a licensed wholesaler or a registered salesman or solicitor of distillery, winery, brewery, importer or boker.

7. For any retail licehsee to purchase spirituous liquor from any person other than a registered solicitor or salesman of a wholesaler licensed by the State of Arizona and the Community.

8. For a retailer to acqure an interest in property owned, occupied or used by a wholesaler in his business, or in a license with respect to the premises of the wholesaler.

9. For a licensee or other person to sell, furnish, dispose of, give, or cause to be sold, furnished, disposed of or given to a person under the age of nineteen years to buy, receive, have in possession or consume, spirituous liquor. The provisions of this paragraph shall not apply to persons udner the age of nineteen employed to package and carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer.

10. For a licensee to employ a person under the age of nineteen years to manufacture, sell or dispose of spirituous liquors. The provisions of this paragraph shall not apply to persons under the age of nineteen employed to package and carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer.

11. For an on-sale retail licensee to employ a person under the age of nineteen years in any capacity connected with the handling of spirituous liquors.

12. For a licensee, when engaged in waiting on or serving customers, to consume spirituous liquor or remain on or about the premises while in an intoxicated or disorderly condition.

13. For an employee of a licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for himself or consume spirituous liquor.

14. For a licensee or other persons to serve, sell or furnish spirituous liquor to an intoxicated or disorderly person, or for a licensee or employee of the licensee to allow or permit an intoxicated or disorderly person to come into or remain in or about the premises.

15. For an on-sale or off-sale retail licensee or an employee thereof to sell, dispose of, deliver or give spirituous liquor to a person between the hours of one o'clock a.m. and six o'clock a.m. on weekdays, and one o'clock a.m. and twelve o'clock noon on Sundays.

16. For an on-sale or off-sale retail licensee or an employee thereof to sell, dispose of, deliver or give away spirituous liquor on his premises on election days during the hours polling places are open for voting.

17. For an on-sale retail licensee or an employee thereof to allow a person to consume spirituous liquors on the premises between the hours of one fifteen a.m. and six o'clock a.m. on weekdays, and one fifteen a.m. and twelve o'clock noon on Sundays.

18. For an on-sale retail licensee to employ a person for the purpose of soliciting the purchase of spirituous liquors by patrons of the establishment for themselves, on a percentage basis or otherwise, and no licensee shall serve employees or allow a patron of the establishment to give spirituous liquor to, or to purchase liquor for or drink liquor with, any employee.

19. For an off-sale retailer to sell spirituous liquors except in the original container, to permit spirituous liquor to be consumed on the premises, or to sell spirituous liquor in a container having a capacity of less than eight ounces, or for an on-sale retailer to sell spirituous liquor for consumption off the premises in the container having a capacity of less than eight ounces.

20. For a person to consume spirituous liquor from a broken package in a public place, throughfare or gathering, and the license of a licensee permitting a violation of this paragraph on the premises shall be subject to revocation. This paragraph shall not apply to sale of spirituous liquors on the premises of and by an on-sale retail license.

21. For a person to have possession of or to transact spirituous liquor which is manufactured in a distillery, winery, brewery, or rectifying plant contrary to the laws of the United States and this state, and any property used in transporting such spirituous liquor shall be forfeited to the state and shall be seized and disposed of by the Gila River Indian Community Police Department.

ARTICLE V. VIOLATIONS, PENALTIES, JURISDICTION

SECTION 1

A. Any person found guilty of violating any of the offenses or unlawful acts enumerated in this Ordinance shall be punished by a fine of not more than Five Hundred Dollars ($500), or by imprisonment in the Community jail for not more than six (6) months, or both.

B. Any licensee violating any provisions of this Ordinance shall have his license suspended or revoked by the Committee.

C. Any licensee who has his license suspended or revoked may appeal such suspension or revocation to the Committee. Upon receipt of said appeal, the Committee shall set such appeal for a prompt hearing. The Committee shall hear such evidence as the licensee, Community, and other interested parties may offer, and render its decision at the conclusion of such hearing.

D. A decision of the Community may be appealed in to the Gila River Indian Community Court, provided that the appeal is duly filed within twenty (20) days from the date of decision of the Committee.

SECTION 2

All licensees shall comply with the laws of the United States and the State of Ariozna governing the manufacture and sale of spirituous liquor, and if the Arizona State Department of Liquor Licenses and Control suspends or revokes the liquor license of the holder of the Community License, the Community Liquor License shall also be suspended or revoked.

CERTIFICATION

Pursuant to authority contained in Article XV, Sec. 1 (a) (7) (9) (19) (b) (3) (8) and Sec. 4 of the amended Constitution and Bylaws of the Gila River Indian Community ratified by the Tribe, January 22, 1960, and approved by the Secretary of the Interior on March 17, 1960, the foregoing ordinance was adopted this 4th day of August, 1976, at a Regular Council meeting held in Dist. 3, Sacaton, Arizona at which a quorum of eleven (11) members were present by a vote of

8 For; 2 Against; 1 Abstain; 6 Absent; and 0 Vacancy.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-15854 Filed 6-3-77;8:45 am]

Bureau of Land Management

[OR 2764]

OREGON

Order Providing for Opening of Public Land

MAY 27, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States.

WILLAMETTE MERIDIAN

T. 40 S., R. 3 E.,
Sec. 10, SW¼.

The area described contains 160 acres in Jackson County.

2. The land described in paragraph 1 hereof is reserved for multiple use management, including sustained yield of forest resources in connection with intermingled revested Oregon and California Railroad Grant Lands and reconveyed Coos Bay Wagon Road Grant Lands, and remains withdrawn from all forms of appropriation under the public land laws, except the mining laws (Ch. 2, Title 30 U.S.C.), the mineral leasing laws, the Minerals Sale Act of July 31, 1947 (30 U.S.C. 601–604), the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869), and sales and exchanges initiated by the Bureau of Land Management.

3. The subject land is located approximately 15 miles southeast of the City of Ashland. Elevation ranges from 4,360 to 5,200 feet above sea level, and the topography is generally rough and mountainous. Vegetation consists primarily of white fir, Douglas fir, ponderosa pine, and native grasses. In the past, the land has been used for timber production and livestock grazing purposes, and it will be managed, together with adjoining national resource lands, for multiple use.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open (except as provided in paragraph 2 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. July 5, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-15855 Filed 6-3-77;8:45 am]

LEGAL SERVICES CORPORATION

COMMUNITY LAW OFFICES, NEW YORK, N.Y.

Grants and Contracts

MAY 31, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355, 88 Stat. 378, 42 U.S.C. 2996–2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Community Law Offices in New York, N.Y.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of Legal Services Corporation at:

New York Regional Office, 10 East 40th Street, New York, N.Y. 10016.

THOMAS EHRLICH,
President.

[FR Doc.77-15891 Filed 6-3-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-41]

APPLICATIONS STEERING COMMITTEE, ATMOSPHERIC CLOUD PHYSICS LABORATORY ADVISORY SUBCOMMITTEE

Meeting

The Applications Steering Committee, Atmospheric Cloud Physics Laboratory Advisory Subcommittee will meet on June 21–24, 1977, at the Marshall Space Flight Center, Marshall Space Flight Center, Alabama 35812, in Room P109, Bldg. 4200 from 8:30 a.m. to 4:30 p.m. each day. The Subcommittee will discuss, evaluate, and categorize the proposals submitted to NASA in response to the Announcement of Opportunity for Atmospheric Cloud Physics Laboratory missions as part of the Shuttle/Spacelab Payload Development Program. Discussion of the professional qualifications of the proposers and their potential scientific contributions to the Atmospheric Cloud Physics Laboratory mission would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), as described above, it is hereby determined that the sessions should be closed to the public.

For further information, please contact Dr. Robert Smith, Marshall Space Flight Center, AL, at 205–453–3183.

Dated: June 1, 1977.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

[FR Doc.77-15949 Filed 6-3-77;8:45 am]

NATIONAL COMMISSION FOR MANPOWER POLICY

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will hold a formal meeting on June 24, 1977. The meeting will be held in the South American Room of the Capitol Hilton Hotel located on the corner of 16th and K Streets NW., Washington, D.C. The meeting will commence at 9 a.m. and conclude at 4:30 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92–203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda for the Commission's meetings will deal with urban and rural manpower problems and approaches to dealing with them; the speed and targeting of the employment stimulus program; the multiple claimants for public service employment relative to its potential scale, scope and limits. The Commission's study of the net employment effects of public service employment will also be discussed.

Members of the general public or other interested individuals may attent Commission meetings. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Chairman no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written application to make an oral statement must be submitted to

the Chairman of the Commission three days before the meeting. The application shall identify the following: The applicant, the subject of the presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statments as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentations will be permitted at any meeting. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the meeting will be available for public inspection five working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Suite 300, Washington, D.C.

Signed at Washington, D.C., this 31st day of May 1977.

ELI GINZBERG,
Chairman, National Commission for Manpower Policy.

[FR Doc.77-15824 Filed 6-3-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Molecular Biology.

DATE AND TIME: Group A—June 23 and 24, 1977, 9 a.m. to 6 p.m. Group B—June 27 and 28, 1977, 9 a.m. to 6 p.m.

PLACE: Group A—Room 321, National Science Foundation. Group B—Room 338, National Science Foundation.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Martin P. Schweizer, Program Director for Biophysics, Room 329, National Science Foundation, Washington, D.C. 20550, telephone number 202-632-4260.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in molecular biology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 31, 1977.

[FR Doc.77-15822 Filed 6-3-77;8:45 am]

ADVISORY PANEL FOR METABOLIC BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Metabolic Biology.

DATE AND TIME: June 23 and 24, 1977, 9 a.m. each day.

PLACE: Room 511, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Elijah B. Romanoff, Program Director for Metabolic Biology, Room 331, National Science Foundation, Washington, D.C. 20550, Telephone 202-632-4312.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in metabolic biology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 31, 1977.

[FR Doc.77-15823 Filed 6-3-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ACRS SUBCOMMITTEE ON REGULATORY ACTIVITIES

Addition

The June 8, 1977, meeting of the ACRS Subcommittee on Regulatory Activities announced in the FEDERAL REGISTER, Vol. 42, No. 99, page 26257, May 23, 1977, will discuss the NRC Regulatory Staff position on the Advisability of a Seismic Scram. This discussion will take place during the afternoon session of the meeting and will include discussion of a report entitled "Advisability of Seismic Scram," Lawrence Livermore Laboratory, UCRL-51256, dated June 30, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-15721 Filed 6-3-77;8:45 am]

[BML No. 45-02808-04]

ATLANTIC RESEARCH CORP.

Order Convening Prehearing Conference

In the matter of Atlantic Research Corporation, 5390 Cherokee Avenue, Alexandria, Virginia, 22314.

Upon inquiry respecting a date and time suitable for a prehearing conference, it has been determined that 1:30 p.m. on June 2, 1977, is convenient to the Licensee and the Staff of the Commission.

Wherefore, it is ordered, That a prehearing conference in this proceeding shall convene at 1:30 p.m. on Thursday, June 2, 1977, in United States District Courtroom No. 17 on the 6th Floor of the Courthouse at 3rd and Constitution Avenue NW., Washington, D.C., to consider matters specified in 10 CFR 2.752 including simplification, clarification, and specification of the issues, possibility of obtaining stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof; identification of witnesses, and steps that may be taken to expedite the presentation of evidence, and to aid in the orderly disposition of the proceeding.

Issued: May 26, 1977, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

SAMUEL W. JENSCH,
Administrative Law Judge.

[FR Doc.77-15723 Filed 6-3-77;8:45 am]

[Docket No. 50-471]

BOSTON EDISON CO., ET AL. (PILGRIM NUCLEAR GENERATING STATION, UNIT 2)

Order

It is ordered, That the evidentiary hearing will resume on Tuesday, June 7, 1977, at 9:30 a.m. in the Blue Room, Memorial Hall, 83 Court Street, Plymouth, Massachusetts.

Dated at Bethesda, Maryland, this 27th day of May, 1977.

THE ATOMIC SAFETY AND LICENSING BOARD,
FREDERICK J. COUFAL,
Chairman.

[FR Doc.77-15732 Filed 6-3-77;8:45 am]

[Docket Nos. 50-325 and 50-324]

CAROLINA POWER AND LIGHT CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 5 and 27 to Facility Operating Licenses Nos. DPR-71 and DPR-62, issued to Carolina Power & Light Company (the licensee), which revised Technical Specifications for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2, located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments remove operability and surveillance requirements for the High Pressure Coolant Injection (HPCI) turbine steam line isolation in the event of HPCI room inlet/outlet ventilation high differential temperature.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 4, 1976, as supplemented January 31, 1977, (2) Amendment No. 5 to License No. DPR-71, (3) Amendment No. 27 to License No. DPR-62, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and the Southport-Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of April 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-15728 Filed 6-3-77;8:45 am]

[Docket Nos.50-452 and 50-453]

THE DETROIT EDISON CO. (GREENWOOD ENERGY CENTER, UNITS 2 AND 3)

Reconstitution of Board

James R. Yore, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because of other commitments, Mr. Yore is unable to continue his service on this Board.

Accordingly, Elizabeth S. Bowers, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland this 26th day of May 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.77-15733 Filed 6-3-77;8:45 am]

[Docket No. 50-555; License No. XR-112]

GENERAL ATOMIC CO.

Issuance of Facility Export License

Please take notice that no request for a hearing or a petition for leave to intervene having been filed following publication of notice of proposed action in the FEDERAL REGISTER on January 27, 1976 (Page 3920) and the Nuclear Regulatory Commission having found that:

(a) The application filed by General Atomic Company, Docket Number 50-555, complies with the requirements of the Act, and the Commission's regulations set forth in Title 10, Chapter I, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations, the Commission has issued License No. XR-112 to General Atomic Company, San Diego, California, authorizing the export of a research reactor with a thermal power level of 2000 kilowatts to Thai Research Center, Office of Atomic Energy for Peace, Bangkok, Thailand.

The export of this reactor to Thailand is within the purview of the Agreement for Cooperation Between the Government of the United States of America and the Government of Thailand.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 27th day of May 1977.

MICHAEL A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc.77-15824 Filed 6-3-77;8:45 am]

[Docket No. 50-315]

INDIANA & MICHIGAN ELECTRIC CO. AND INDIANA & MICHIGAN POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-58, issued to Indiana & Michigan Electric Company and Indiana & Michigan Power Company (the licensees), which revised the Technical Specifications for operation of the Donald C. Cook Nuclear Plant Unit No. 1 (the facility), located in Berrien County, Michigan. The amendment is effective as of the date of its issuance.

The amendment changed the Appendix B Technical Specifications to change the requirements for periphyton and fish larvae sampling and for the discharge of chemicals to the on-site absorption field.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the December 28, 1976 and March 16, 1977 letters of application for amendment and supplement dated April 22, 1977, and (2) Amendment No. 19 to License No. DPR-58. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A single copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this twelfth day of May, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-15726 Filed 6-3-77;8:45 am]

[Docket No. P-564-A]

PACIFIC GAS & ELECTRIC CO. (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Reconstitution of Board

Daniel M. Head, Esq. was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Head is unable to continue his service on this Board and, accordingly, Marshall E. Miller, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 24th day of May, 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.77-15729 Filed 6-3-77;8:45 am]

[Docket No. 50-277, 50-278]

PHILADELPHIA ELECTRIC CO. (PEACH BOTTOM ATOMIC POWER STATION, UNITS 2 AND 3)

Order for Conference With Counsel

MAY 25, 1977.

By a designation dated March 2, 1976, this Licensing Board was appointed to conduct the proceedings on remand made necessary by the decision in *York Committee for a Safe Environment* v. *NRC*, 527 F.2d 812 (D.C. Cir. 1975). The facility involved in that decision is the Peach Bottom Atomic Power Station, Unit 2, and the matter remanded involves one aspect of the facility's compliance with Appendix I of 10 CFR Part 50. By a Notice of Reconstitution of Board dated May 23, 1977, Marshall E. Miller was appointed Chairman of this Licensing Board.

On February 25, 1976, the Commission, in order to effectuate the Court's mandate, directed the Regulatory Staff to perform the cost-benefit analysis required by the Court's opinion regarding an individualized analysis of the costs and benefits of reducing radioactive emissions. The Commission, by its Order of that date, further directed that "After that cost/benefit analysis is completed, the Licensing Board shall assure that an opportunity for a hearing concerning the adequacy of the cost/benefit analysis and possible modifications to the operating license is afforded parties who participated in the prior administrative proceedings in this matter."

The Environmental Coalition on Nuclear Power (ECNP) is a party which participated in the original proceedings, and it has indicated by a letter from counsel dated April 11, 1977 that it anticipates a hearing in this regard. The NRC Staff has completed the preparation of a report of the results of its Appendix I analysis of the Peach Bottom units, and copies of the report were mailed to all parties on the service list by letter dated April 14, 1977.

The Board will hold a conference with counsel for all interested parties on Tuesday, June 21, 1977 at 10:00 a.m. in the Nuclear Regulatory Commission's Hearing Room, 5th Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland 20014.

The purpose of this conference with counsel is to discuss all matters reasonably related to the order of remand by the Court and the Commission's order to effectuate such remand. A schedule will be developed for such further steps as may be necessary in this regard. If counsel desire to file any motions, responses, statements of issues or any other relevant papers, copies thereof shall be in the hands of the Board on or before June 14, 1977.

It is so ordered.

Dated at Bethesda, Maryland this 25th day of May 1977.

THE ATOMIC SAFETY AND LICENSING BOARD,
MARSHALL E. MILLER,
Chairman.

[FR Doc.77-15730 Filed 6-3-77;8:45 am]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC COMPANY, ET AL. (TROJAN NUCLEAR PLANT)

Hearing on Amendment of Facility Operating License

(Proposed Amendment for Fuel Storage Pool Modifications)

The U.S. Nuclear Regulatory Commission (the Commission) on February 14, 1977, published in the FEDERAL REGISTER, 42 FR 9068, a notice of a "Proposed Issuance of Amendment to Facility Operating License" relating to the above-identified facility. The proposed amendment would permit an increase in the spent fuel storage capacity at the Trojan Nuclear Plant, and opportunity was afforded to interested parties to request a hearing with regard thereto.

The State of Oregon, Mr. David B. McCoy, Ms. Susan M. Garrett and Ms. Sharon S. McKeel filed petitions to intervene and requested a hearing in response to the above aforementioned announcement in the FEDERAL REGISTER. These petitions were granted by this Atomic Safety and Licensing Board which had been established to hear such petitions. In view of our Memorandum and Order granting the petitions, we are hereby issuing a Notice of Hearing in connection with the proposed amendment to increase the spent fuel storage capacity at the Trojan Nuclear Plant.

Accordingly, please take notice that a hearing will be held at a time and place to be fixed by the Atomic Safety and Licensing Board which has been designated to conduct the proceeding with regard to the proposed amendment requesting an increase in the spent fuel storage capacity at the Trojan Nuclear Plant.

The members of the Atomic Safety and Licensing Board designated by the Atomic Safety and Licensing Board Panel to conduct the above-noticed hearing are Mr. Frederick J. Shon, Dr. Frederick P. Cowan as technically qualified members, and Mr. Sheldon J. Wolfe as chairman.

Members of the public may request permission to make a limited appearance pursuant to § 2.715(a) of the Commission's Rules of Practice, 10 CFR Part 2. Persons desiring to make limited appearances are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A person making a limited appearance does not become a party but may state his position and raise questions which, if relevant, the Board will require to be answered by the parties through evidence on the record. Limited appearances will be received at the time of the evidentiary hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board.

It is so ordered.

Dated at Bethesda, Maryland this 26th day of May, 1977.

For the Atomic Safety and Licensing Board, designated to rule on petitions for leave to intervene.

SHELDON J. WOLFE,
Esquire, Chairman.

[FR Doc.77-15734 Filed 6-3-77;8:45 am]

[Docket Nos. STN 50-556, STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC. AND WESTERN FARMERS ELECTRIC COOPERATIVE, INC. (BLACK FOX STATION, UNITS 1 AND 2)

Prehearing Conference

The Atomic Safety and Licensing Board (the Board) previously had scheduled the prehearing conference required under § 2.752 of the Commission's Rules of Practice, 10 CFR Part 2, for May 6, 1977. This prehearing conference, however, was cancelled at the request of the Applicants and with the consent of the other parties. This Notice is to reschedule that prehearing conference.

Notice is hereby given that the prehearing conference will be held at 10:00 a.m. on Monday, June 27, 1977, in Courtroom No. 3, U.S. District Courthouse, 333 West 4th Street, Tulsa, Oklahoma 74103. This prehearing conference will deal with the following matters:

1. Oral argument on any outstanding motion;

2. Further simplification, clarification and specification of issues, if necessary,

3. The necessity or desirability of amending any pleadings;

4. Obtaining stipulations on admissions of fact and on the contents and authenticity of documents to avoid unnecessary proof;

5. Identification of witnesses and any limitations on the number of expert witnesses.

6. Discussion of the agreed-upon schedule, if necessary; and

7. Any other matters that may aid in the orderly disposition of the proceeding.

The parties are directed to confer in advance of this prehearing conference in such manner as they deem appropriate, to discuss any stipulations that might be reached with regard to presentation of evidence and the conduct of the evidentiary hearing to be scheduled by further order of the Board. The Board will require a report on such meeting at the prehearing conference.

Members of the public are invited to attend this prehearing conference as well as the evidentiary hearing to be scheduled by the Board. However, the Board will not receive limited appearances from members of the public at this prehearing conference but will entertain such limited appearances at the beginning of the evidentiary hearing.

Issued at Bethesda, Maryland, this 26th day of May, 1977.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.77-15724 Filed 6-3-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.38, Revision 2, "Quality Assurance Requirements for Packaging, Shipping, Receiving, Storage, and Handling of Items for Water-Cooled Nuclear Power Plants" describes a method acceptable to the NRC staff of complying with the Commission's regulations with regard to the quality assurance requirements for the packaging, shipping, receiving, storage, and handling of items for water-cooled nuclear power plants. This guide endorses ANSI Standard N45.2.2-1972, "Packaging, Shipping, Receiving, Storage, and Handling of Items for Nuclear Power Plants During the Construction Phase." The guide was revised after consideration of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 24th day of May 1977.

For the Nuclear Regulatory Commission.

ROGER J. MATTSON,
Acting Director,
Office of Standards Development.

[FR Doc.77-15735 Filed 6-3-77;8:45 am]

TOPICAL REPORT

Issuance and Availability

The Nuclear Regulatory Commission has issued a topical report, NUREG-0230, "Verification of Prior Measurements by Nondestructive Assay."

NUREG-0230 presents information related to establishing an acceptable framework for using nondestructive assay for the verification measurement of special nuclear material in non-tampersafed containers.

This document is available for inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased from the National Technical Information Service, Springfield, Virginia 22161. (Paper copy: $3.50, Microfiche: $3.)

(5 U.S.C. 522(a).)

Dated at Rockville, Maryland, this 25th day of May 1977.

For the Nuclear Regulatory Commission.

ROGER J. MATTSON,
Acting Director,
Office of Standards Development.

[FR Doc.77-15722 Filed 6-3-77;8:45 am]

[Docket No. 50-271, OL No. DPR-28, Amdt. (Increase Spent Fuel Storage)]

VERMONT YANKEE NUCLEAR POWER CORPORATION (VERMONT YANKEE NUCLEAR POWER STATION)

Order Convening Evidentiary Hearing

The Atomic Safety and Licensing Board, at a Special Prehearing Conference held on April 26, 1977 in Brattleboro, Vermont, considered with the parties and their attorneys a suitable date for commencement of evidentiary hearings. The date determined was June 21, 1977.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that evidentiary hearings in this proceeding to consider the contentions of the parties respecting the proposed enlargement of the spent fuel storage pool shall convene at 9 a.m. on Tuesday, June 21, 1977 in the North Room (2nd Floor), Recreation Center, 207 Main Street, Brattleboro, Vermont 05301.

Issued: May 24, 1977, Bethesda, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.77-15731 Filed 6-3-77;8:45 am]

[Docket Nos. STN 50-508 and STN 50-509]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM, WPPSS NUCLEAR PROJECTS NOS. 3 AND 5

Issuance of Amendment to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Washington Public Power Supply System (WPPSS) to conduct certain site activities in connection with the WPPSS Nuclear Projects Nos. 3 and 5 prior to a decision regarding the issuance of construction permits. Notice of the Limited Work Authorization was published in the FEDERAL REGISTER on April 18, 1977 (42 FR 20202).

Since that time, the Atomic Safety and Licensing Board has determined that additional activities may be authorized under the Limited Work Authorization. The additional activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1) and include development and use of the Saginaw Spur laydown area and construction of a new bridge across the Chehalis River at South Elma.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Washington Public Power Supply System and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A copy of (1) the Atomic Safety and Licensing Board (Board) Partial Initial Decision Authorizing Limited Work Authorization dated April 8, 1977, and the Board's Supplemental Partial Initial Decision of May 10, 1977; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report, and amendments thereto; (4) the staff's Final Environmental Statement (NUREG-75/053) dated June 1975; and (5) the

Commission's letters of authorization, dated April 8, 1977 and May 24, 1977, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, Washington.

Dated at Rockville, Maryland, this 24th day of May 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77-15727 Filed 6-3-77;8:45 am]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), for operation of the Yankee Nuclear Power Station (Yankee-Rowe) located in Rowe, Franklin County, Massachusetts.

The amendment would revise the provisions in the Technical Specifications to implement changes resulting from the Yankee-Rowe Core XIII reload analysis, facility ECCS modifications, and a conceptual change to the ECCS analytical model.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By July 5, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceedings, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of the FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Frederic Greenmond, Esquire, New England Electric System, 20 Turnpike Road, Westboro, Massachusetts 01581, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated April 13, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Greenfield Public Library, 402 Main Street, Greenfield, Massachusetts 01581.

Dated at Bethesda, Maryland, this 23rd day of May 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-15725 Filed 6-3-77;8:45 am]

[Docket No. 50-269, 50-270 and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40, 40, and 37 to Facility Operating License No. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Company which revised the Technical Specifications for operation of the Oconee Nuclear Station, Unit No. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise paragraph 4.18.1 of the common Technical Specifications to provide a one time extension in the inspection interval for the shock suppressors (snubbers) for Oconee Unit No. 2 to not longer than June 4, 1977.

The application for the amendments complies with the standards and requirements for the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 6, 1977, (2) Amendment Nos. 40, 40 and 37 to License Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 20th day of May 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1 Division of Operating Reactors.

[FR Doc.77-15869 Filed 6-3-77;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of

Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide, SG-QA10, "Quality Assurance Auditing for Nuclear Power Plants," has been developed. The Working Group draft of this Safety Guide was modified by the IAEA Technical Review Committee on Quality Assurance which met in March 1977, and we are soliciting public comments on this modified draft. Comments on this draft received by August 1, 1977 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 23rd day of May 1977.

For the Nuclear Regulatory Commission.

ROGER J. MATTSON,
Acting Director,
Office of Standards Development.

[FR Doc.77-15871 Filed 6-3-77;8:45 am]

[BML No. 37-02607-02]

PITTSBURGH-DES MOINES STEEL CO.

Order Convening Prehearing Conference

In the matter of Pittsburgh-Des Moines Steel Company, Grand Avenue, Neville Island, Pittsburgh, Pennsylvania 15225.

Upon inquiry respecting a date and time suitable for a prehearing conference, it has been determined that 11:00 a.m. on June 13, 1977 is convenient to the Licensee and the Staff of the Commission.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that a prehearing conference in this proceeding shall convene at 11:00 a.m. on Monday, June 13, 1977, in the South Courtroom (Room 328), United States Tax Court, 400 2nd Street, N.W., Washington, D.C. to consider matters specified in 10 CFR 2.752 including simplification, clarification and specification of the issues, possibility of obtaining stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof; identification of witnesses, and steps that may be taken to expedite the presentation of evidence, and to aid in the orderly disposition of the proceeding.

Issued: May 31, 1977, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

SAMUEL W. JENSCH,
Administrative Law Judge.

[FR Doc.77-15868 Filed 6-3-77;8:45 am]

[Docket No. 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR-68, issued to Tennessee Valley Authority (the licensee), which revised Technical Specification for operation of the Browns Ferry Nuclear Plant, Unit No. 3 (the facility) located in Limestone County, Alabama. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications to allow replacement of either or both of the two Crosby reactor coolant system pressure relief valves with Target Rock valves of slightly smaller capacity provided that the Target Rock valves are set to relieve at a lower pressure.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1977, as supplemented April 21, 1977, (2) Amendment No. 5 to License No. DRP-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of May 1977.

For the Nuclear Regulatory Commission,

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-15870 Filed 6-3-77;8:45 am]

[Docket No. 50-389]

FLORIDA POWER & LIGHT CO., (ST. LUCIE NUCLEAR POWER PLANT, UNIT NO. 2)

Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of May 31, 1977 (ALAB-404), oral argument on the intervenors' motion for a stay pending appeal will be held at 10:00 a.m., Wednesday, June 8, 1977 in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Appeal Board.

Dated: June 1, 1977.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.77-15988 Filed 6-3-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE DIABLO CANYON NUCLEAR STATION, UNITS 1 AND 2

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on the Diablo Canyon Nuclear Station, Units 1 and 2, will hold a meeting on June 21, 22, and 23, 1977 at the Ramada Inn-Airport North, 6333 Bristol Parkway, Los Angeles, CA 90230. The purpose of this meeting is to continue its review of the seismic design and other aspects of the application of the Pacific Gas and Electric Company (PG&E) for operating licenses for Units 1 and 2.

The agenda for subject meeting shall be as follows:

Tuesday, June 21, 1977, 8:30 a.m. to 9 a.m. (Open.)

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to exchange opinions and discuss preliminary views and recommendations relating to the above review.

9 a.m. to conclusion of business. (Open.)

Wednesday, June 22, 8:30 a.m. to conclusion of business. (Open.)

Thursday, June 23, 8:30 a.m. to conclusion of business. (Open.)

The Subcommittee will meet with representativces of PG&E and the NRC Staff to further consider PG&E's application for licenses to operate Units 1 and 2 of the Diablo Canyon Nuclear Station. Items to be discussed during this three-day meeting will include the seismic design bases, plant and system re-

evaluation, seismic studies, selected nonseismic matters, and the potential issuance of an interim operating license for Unit 1.

At the conclusion of these sessions, the Subcommittee may caucus to determine whether the matters identified in the Executive Sessions have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than June 14, 1977, to Mr. John C. McKinley, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555, and at the San Luis Obispo County Free Library, San Luis Obispo, CA 93406.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on June 20, 1977 to the Office of the Executive Director of the Committee, telephone 202-634-1371, attention Mr. John C. McKinley, between 8:15 a.m. and 5 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those open sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. John C. McKinley, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection on or after June 30, 1977, at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555, and at the San Luis Obispo County Free Library, San Luis Obispo, CA 93406.

A copy of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after September 23, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: June 1, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-16104 Filed 6-3-77;9:45 am]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

TRANSPORTATION ISSUE HEARINGS

Conflicting views on national transportation issues—including energy, waterway user charges, and federal regulations—will be aired at public hearings scheduled by the National Transportation Policy Study Commission for June 22-24 in Washington, D.C.

The hearings, first of a nationwide series planned by the Commission, are intended to help determine the needs of our Nation's communities, the transportation industry, shippers, the traveling public and the American taxpayer.

The Commission, composed of 19 members, including twelve Members of Congress and seven public representatives, was created by Congress to examine, evaluate, and analyze our Nation's transportation needs and resources through the year 2000. The Commission's final report and policy recommendations are due on December 31, 1978.

The Commission plans to organize testimony of witnesses to insure that it hears from all of the various interests with a stake in transportation, such as labor, management, shippers, consumers, state governments, and environmentalists.

The hearings will be held in Room 2167, Rayburn House Office Building, in Washington. Those interested in testifying personally or in submitting written statements should contact, no later than 6 p.m., June 12, 1977: Mr. John E. Wild, Executive Director, NTPSC, 1750 K Street NW., Suite 800, Washington, D.C. 20006.

Dated: May 31, 1977.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc.77-15853 Filed 6-3-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 25, 1977 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an

indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Cost of Cancer Care Study (Pre-Test), single-time, physicians, Richard Eisinger, 395–6140.

Alcohol, Drug Abuse and Mental Health Administration, (Pre-Clearance) Sedative/Hypnotic and Stimulant Study, single-time, sedative/hypnotics and stimulant drug users, Richard Eisinger, 395–6140.

DEPARTMENT OF THE INTERIOR

National Park Service, Redwood Visitor Survey, single-time, visitors to Redwood National Park, Marla Gonzalez, 395–6132.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Purchasers Questionnaire (Semi-Conductor Devices), 244, single-time, Texas Instruments Inc. customers, Lowry, R. L., 395–3772.

REVISIONS

VETERANS ADMINISTRATION

Veterans Initial Application in Acquiring Specially Adapted Housing, 21–4555, on occasion, disabled veterans, Warren Topelius, 395–5872.

Application for Direct Loan, VA26–6921, on occasion, veterans, Warren Topelius, 395–5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Student Loan Application Supplement, OE–1260, other (see SF–83), student applicants, IHE's, lenders, Lowry, R. L., 395–3772.

Health Resources Administration, Medical Care Expenditure Survey—Provider Record Check Pretest, none, on occasion, doctors and hospitals reported by household respondents, Richard Eisinger, 395–6140.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Application for Dependency and Indemnity Compensation or Death Pension from the Veterans Administration, VA–21–4182, on occasion, dependents, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–16012 Filed 6–3–77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 27, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Research on the Factors Affecting Utilization of Technology Assessment Studies in Public Policy-Making, single time, business firms, Ellett, C. A., 395–5867.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Notice to Mediation Agencies, FMCS F–7, on occasion, labor-management organizations, Marsha Traynham, 395–4529.

DEPARTMENT OF AGRICULTURE

Forest Service, Wildlife Prevention Research Needs Survey, single time, wildlife prevention specialists, Natural Resources Division, Marla Gonzalez, 395–6827.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, Methadone Evaluation Study, single time, clients and staff in 25 methadone programs, Human Resources Division, Richard Eisinger, 395–3532.

REVISIONS

DEPARTMENT OF AGRICULTURE

Forest Service, Certificate of Nonsubstitution, 2400–43, 44, 45, on occasion, national forest timber purchasers in western United States, Warren Topelius, 395–5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Services, Monthly "Flash" Reports of Selected Program Data, SRSNCSS124, monthly, State welfare/medicaid agencies, Sunderhauf, M. B., 395–6140.

DEPARTMENT OF THE INTERIOR

Bureau of Sport Fisheries and Wildlife, Evaluation of Qualifications of Applicant for Federal Bird Marking and Salvage Permit, 3–1852, on occasion, individual banders and/or ornithologists, Warren Topelius, 395–5872.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration, Regulations Governing Applications Under Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, on occasion, railroads, Strasser, A., 395–5867.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Wool and Mohair Inquiry—Texas, annually, Texas wool and mohair warehousemen, Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Bureau of Census, Current Retail Sales Report, Current Report on Retail Credit Accounts (Firms Operating Less Than Eleven Stores), BUS 50, BUS 54, monthly, retail trade stores, Marsha Traynham, 395–4529.

DEPARTMENT OF DEFENSE

Department of the Air Force, Accessorial Services—Mobile Homes, DD1863, on occasion, transportation industry, Warren Topelius, 395–5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary), Construction Complaint and Covering Letter by Owner, FHA 2556, on occasion, homeowners of new homes, Housing, Veterans, and Labor Division, 395–3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–16013 Filed 6–3–77;8:45 am]

RENEGOTIATION BOARD

PERSONS HOLDING PRIME CONTRACTS OR SUBCONTRACTS FOR TRANSPORTATION BY WATER AS COMMON CARRIER

Extension of Time for Filing Financial Statements Under Renegotiation Act of 1951

Every person who held a prime contract or subcontract for transportation by water as a common carrier at any time during the calendar year 1976 is hereby granted an extension of time until November 1, 1977, for filing a financial statement for such year pursuant to section 105(e) of the Renegotiation Act of 1951, as amended.

Dated: June 1, 1977.

GOODWIN CHASE,
Chairman.

[FR Doc.77–15909 Filed 6–3–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 05/08–0006]

NORTHWEST GROWTH FUND, INC.

Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.701 of the regulations governing Small Business Investment Companies (13 CFR 107.701 (1977)) for transfer of ownership and control of the Northwest Growth Fund, Inc. (NWGFI), 960 Northwestern Bank Building, Minneapolis, Minnesota 55402, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

NWGFI was licensed February 25, 1960, and its private paid-in capital and paid-in surplus totalled $3,086,203 at March 31, 1977.

Prior to August 12, 1976, 45.43 percent of the common stock of NWGFI was owned by Northwest Bancorporation

(NWB), a bank holding company, located at 1200 Northwestern Bank Building, Minneapolis, Minnesota 55402. During the period from August 12, 1976, through February 10, 1977, NWB acquired an additional 24,655 shares thereby increasing its common stock ownership to 55.49 percent.

In connection with NWB's acquisition of the major stock ownership interest in NWGFI, there has not been nor is there any intent to change NWGFI's area of operations, capitalization, investment policy or the management which consists of the following officers:

Robert F. Zicarelli, President, Director and Chief Executive Officer, 960 Northwestern Bank Building, Minneapolis, Minnesota 55402.

Daniel J. Haggerty, Executive Vice President, 960 Northwestern Bank Building, Minneapolis, Minnesota 55402.

Merle D. Borchers, Vice President, 960 Northwestern Bank Building, Minneapolis, Minnesota 55402.

Dorothy I. McIntyre, Secretary, 960 Northwestern Bank Building, Minneapolis, Minnesota 55402.

In addition, there is a total of 16 other directors.

Matters involved in SBA's consideration of the application include the general business reputation and character of the major shareholder and management, and the probability of successful operations of the company under such management (including profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Minneapolis, Minnesota.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 31, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-15856 Filed 6-3-77;8:45 am]

[License No. 06/06-5159]

VENTURE CAPITAL, INC.

Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR 107.701 (1977)), for transfer of control of Venture Capital, Inc. (Venture), 975 Tower Building, Little Rock, Arkansas 72203, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations.

Venture was licensed on May 15, 1972, and its present capitalization is $197,000. There are 39,400 of its shares issued and outstanding. It is proposed that Mr. William R. Smith, Sr., and Mr. William R. Smith, Jr., Macon Lake Plantation, Lake Village, Arkansas 71653, acquire 37,400 of the outstanding shares of Venture. Mr. Smith, Sr., will purchase 17,400 shares and Mr. Smith, Jr., 20,000 shares. The selling stockholders are as follows:

	Number of shares
1. Albert J. Prevot, 1700 Larkspur, McAllen, Tex. 78501	18,700
2. George S. Lensing, P.O. Box 31, Lake Providence, La. 71254	18,700
	37,400

The Smiths operate the Macon Lake Plantation, Macon Lake Gin Co., and are Chairman and President respectively of the Citizens Bank of Tillar, Arkansas. They propose to transfer the principal office to Tillar, Arkansas, and maintain a branch office in Little Rock, Arkansas. Upon transfer of control, the new owners will immediately increase the capital to $222,000 and, over the next eighteen months, will bring the total capitalization of the licensee to $500,000.

Matters involved in SBA's consideration of the application includes the general business reputation and character of management and shareholders, and the probability of successful operations of Venture under their management in accordance with the Act and Regulations.

Notice is further given that any person may, not later than June 21, 1977, submit to SBA in writing, comments on the proposed transfer of control of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published by Venture in a newspaper of general circulation in Tillar, Arkansas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 27, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-15884 Filed 6-3-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-106]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE, SUBCOMMITTEE ON SHIPS' STORES

Open 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 the organizational meeting of the Chemical Transportation Industry Advisory Subcommittee on Ships' Stores to be held on July 13, 1977, beginning at 9:30 a.m. in Room 8334, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590.

This Subcommittee is a new Subcommittee, formed under Chemical Transportation Industry Advisory Committee, with the purpose of reviewing and updating requirements for ships' stores (ships' consumables) presently contained in 46 CFR 147.

A number of the requirements presently contained in 46 CFR 147 were written in the early 1940's as part of the war effort. These requirements are due for updating in light of today's technology and the multifaceted missions for which modern vessels are being used. These missions include such things as normal dry cargo, container, tanker, LASH/SEABEE, and OBO operations; sophisticated offshore, research and oil exploration vessels; offshore supply vessels and such special services as communications vessels used by NASA and the space programs.

Included under the requirements for ships' stores would be both traditional and specialized consumables and materials used by ships (excluding cargo and fuel), such as antifouling paints and preservatives, water treatment chemicals, corrosives, acids, refrigerants, and numerous other special systems on board vessels which utilize hazardous materials as defined in the Packaged Hazardous Materials Regulations (49 CFR Parts 171-177). In general terms, such hazards as toxicity, radioactivity, flammability, corrosivity, explosive reactions, and oxidizing characteristics will be considered in determining the degree of required regulatory coverage.

The revisions and updating will be done under the requirements and provisions of the Dangerous Cargo Act (46 U.S.C. 170). These revisions will consider the safety of the vessel, crew, and cargo.

The Subcommittee considerations will basically be limited to known and proved technology and vessels, but will consider novel and advanced systems with potential uses for the future in such areas as offshore exploration, offshore drilling, offshore mining, and floating power plants (nuclear and conventional) where justified.

The agenda for this meeting is as follows:

1. Call to Order
2. Opening Remarks
3. Definition of Ships' Stores and Scope of Subcommittee Work
4. Subcommittee Assignments
5. Any Other Business Brought Before the Subcommittee
6. Adjournment

Attendance is open to the interested public. It is requested that all knowledgeable, interested parties provide advice and assistance to this Subcommittee at

the initial organizational meeting and future meetings. The Chairman will invite members of the public to present statements at the meeting. Information may be obtained from Captain C. E. Mathieu, Commandant (G-MHM/83), U.S. Coast Guard, Washington, D.C. 20590, 202-426-2306. Any members of the public may present a written statement to the Subcommittee at any time.

Dated: May 25, 1977.

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

[FR Doc.77-15964 Filed 6-3-77;8:45 am]

[CGD 77-104]

NEW YORK HARBOR VESSEL TRAFFIC SERVICE ADVISORY COMMITTEE

Renewal of Charter

This is to give notice, in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1) of October 6, 1972, that the New York Harbor Vessel Traffic Service Advisory Committee has been renewed by the Secretary of Transportation for a two-year period beginning May 21, 1977 through May 21, 1979.

The New York Harbor Vessel Traffic System Advisory Committee was established by the Commander, Third Coast Guard District, to provide consultation and advice on the need for, and development of, installation and operation of a Vessel Traffic System for New York Harbor, pursuant to the Ports and Waterways Safety Act of 1972 (Pub. L. 92-340; 33 U.S.C. 1221).

Interested persons may seek additional information by writing to Commander D. A. Sumi, Project Officer, Vessel Traffic Service, Building 400, Section N, Third Coast Guard District, Governors Island, New York 10004 or by calling 212-264-0409.

Dated: May 27, 1977.

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

[FR Doc.77-15963 Filed 6-3-77;8:45 am]

Federal Aviation Administration

AIRPORT TRAFFIC CONTROL TOWER AT ESSEX COUNTY AIRPORT, FAIRFIELD, N.J.

Commissioning

Notice is hereby given that on or about June 8, 1977, an Airport Traffic Control Tower will be commissioned at Essex County Airport (formerly Caldwell-Wright Airport), Fairfield, N.J. Hours of operation will be 9 a.m. to 5 p.m., daily local time. The Tower will provide a safe, orderly, and expeditious flow of traffic on and in the vicinity of the Airport. Communications to the Airport Traffic Control Tower should be addressed as follows:

Airport Traffic Control Tower, Department of Transportation, Federal Aviation Administration, Essex County Airport, Passaic Avenue, Fairfield, N.J. 07006.

(Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752, 49 U.S.C. 1354.)

Issued in New York, N.Y., on May 27, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-15861 Filed 6-3-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 133—AIRBORNE WEATHER AND GROUND MAPPING PULSED RADAR

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 the RTCA Special Committee 133 on Airborne Weather and Ground Mapping Pulsed Radars to be held June 28-29-30, 1977, Conference Room 426, Building 1202, NASA Langley Research Center, Hampton, Virginia commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of First Meeting held April 20-21, 1977; (3) Consideration of Additional Members Submissions; (4) Development of a New Minimum Performance Standard; and (5) Assignment of Tasks.

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 hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., 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 May 27, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc.77-15862 Filed 6-3-77;8:45 am]

Materials Transportation Bureau

NEW HAZARDOUS MATERIALS PLACARDS; DATE ON WHICH USE BECOMES MANDATORY

Public Hearing

On April 15, 1976, a final rule was published by the Materials Transportation Bureau (MTB) in Docket HM-103/112 (41 FR 15972) requiring new diamond-shaped hazardous materials placards to be used exclusively after July 1, 1977, in place of previously required placards of different design.

Petitions were submitted on February 14, 1977, by the National Oil Jobbers Council (NOJC), and on March 2, 1977, by the American Trucking Associations, Inc. (ATA), seeking a delay of the date on which use of new diamond-shaped hazardous materials placards (49 CFR Part 172, Subpart F) becomes mandatory. NOJC seeks a delay until September 1, 1978. ATA seeks to continue the use of the old permanent rectangular highway placards until those placards or the vehicles upon which they are mounted are retired from service. Although the existing July 1, 1977, mandatory placarding date, upon which both petitions were based, is changed to January 1, 1978, by a final rule appearing elsewhere in this issue of the FEDERAL REGISTER, the MTB is seeking public comment on both petitions and will hold a public hearing on July 21, 1977, to receive both written and oral comments on the merits of any further adjustment of the mandatory placarding date as sought by those petitions. In general, for reasons already extensively addressed in Docket HM-103/112, the MTB is concerned that a unified and consistent placarding system, as part of the hazard information system that includes closely related labeling, marking and shipping paper requirements, be achieved as rapidly as practicable. Public comment will be considered in the context of this well-established goal.

The petition submitted by NOJC argues that heating oil delivery vehicles are being required to display the new placards only eighteen months after a previous rule change which also required the replacement of placards (Docket HM-102, 40 FR 22263, May 22, 1975), and that the costs the vehicle operators must incur to affix new placards to their vehicles can and should be minimized by a delay until September 1, 1978, to provide a period of time during which the new placards can be replaced in the normal vehicle maintenance cycle.

In support of its request for continuing the use of existing permanent highway placards until the placards or the vehicles to which they are affixed are retired, ATA argues that a gradual phase-in of the new placards, for those using permanent placarding systems rather than the less expensive temporary placards, is more cost effective and operationally efficient than imposition of a specific mandatory compliance date and would not have a detrimental impact on transportation safety. "Grandfathering" the old permanent placards is said by ATA to be justified by vehicle downtime and labor costs necessary to effect the changeover, as well as by "ripple effects" of an abrupt changeover in other areas of carrier activity, all of which ATA urges can and should be minimized by allowing the old permanent placards to be replaced as much as possible in the normal course of business. ATA also alleges that, based on a very limited survey of 27 hazardous materials carriers, compliance costs will exceed $13 million (a figure subject to adjustment as a result of the six-month delay already granted).

Persons supporting the NOJC or the ATA petition should be prepared to verify the assertions made therein and to add any needed additional information on costs and safety or other impacts like-

ly to result from failing to grant the relief sought. In particular, MTB is interested in the total number of motor vehicles now using permanent metal placards, and the length of the average period of service between downtime for repair, maintenance or overhaul of permanently placarded vehicles carrying hazardous materials on a routine or dedicated basis.

Persons opposing the petitions should be prepared to analyze any deficiencies therein, and to provide documented opinions on the costs effects on transportation safety, and other impacts likely to result from granting the relief sought. In particular, the MTB is interested in information on any safety or operational problems experienced from July 1, 1976, to date, or likely to be experienced, as a result of simultaneous use of the old and the new placarding systems, and compliance costs already incurred by persons subject to the new placarding requirements.

A one-day public hearing will be held on July 21, 1977. The hearing will open at 9:30 a.m. in the auditorium of the FAA Building located at 800 Independence Avenue, SW., Washington, D.C.

Interested persons are invited to attend the hearing and present oral or written statements on the matter set for hearing. These statements will be a matter of public record. Any person wishing to make a statement at the hearing should notify the Docket Section prior to July 18, 1977. Written comments on the matter set for hearing will be received until August 22, 1977, and those comments, as well as the NOJC and ATA petitions, may be viewed in the Docket Section, Room 6500, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20590 (Phone: 202/426-2077).

The hearing will be informal and will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102)

Issued in Washington, D.C., on June 2, 1977.

JAMES T. CURTIS, Jr.,
Director, Materials Transportation Bureau.

[FR Doc.77-16053 Filed 6-3-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 405]

ASSIGNMENTS OF HEARINGS

JUNE 1, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 111871 (Sub-No. 10), Southeastern Freight Lines, now being assigned for continued hearing on June 13, 1977 (1 week), at the Holiday Inn, Sugar Creek Road and Interstate 85N, Charlotte, N.C., June 27, 1977 (1 week), at the Holiday Inn, Sugar Creek Road and Interstate 85N, Charlotte, N.C., July 25, 1977 (1 week), at Atlanta Mariott Hotel, Courtland Industrial Boulevard, Atlanta, Ga. and August 1, 1977 (1 week), at the Mariott Hotel, Courtland and Industrial Boulevard, Atlanta, Ga.

MC 134323 Sub 91, Jay Lines, Inc., now being assigned October 20, 1977 (2 days) at New Orleans, Louisiana in a hearing room to be later designated.

MC 141033 Sub 7, Continental Contract Carrier Corp. now being assigned October 18, 1977 (2 days) at New Orleans, Louisiana in a hearing room to be later designated.

MC 52460 Sub 192, Ellex Transportation, Inc. now being assigned October 17, 1977 (1 day) at New Orleans, Louisiana in a hearing room to be later designated.

MC 136786 Sub 110, Robco Transportation, Inc. now being assigned October 14, 1977 (1 day) at New Orleans, Louisiana in a hearing room to be later designated.

MC 29910 Sub 174, Arkansas-Best Freight System, Inc. now being assigned October 13, 1977 (1 day) at New Orleans, Louisiana in a hearing room to be later designated.

MC 116763 Sub 352, Carl Subler Trucking, Inc. now being assigned October 12, 1977 (1 day) at New Orleans, Louisiana in a hearing room to be later designated.

MC 127187 Sub 16, Floyd Duenow, Inc. now assigned June 20, 1977 at Minneapolis, Minnesota is being transferred to Court Room 3, 110 South 4th Street, 6th Floor.

MC 136786 Sub 103, Robco Transportation, Inc. now assigned June 15, 1977 at Minneapolis, Minnesota is being cancelled and reassigned for June 15, 1977 (1 day) at St. Paul, Minnesota and will be held in Room 627, Federal Building, 316 North Robert Street.

MC 117940 Sub 187, Nationwide Carriers, Inc. now assigned June 16, 1977 at Minneapolis, Minnesota is being cancelled and reassigned for June 16, 1977 (2 days) at St. Paul, Minnesota and will be held in Room 627, Federal Building, 316 North Robert Street.

MC 133490 Sub 11, Lee's Trucking, Inc. now assigned June 14, 1977 at Minneapolis, Minnesota is being cancelled and reassigned for June 14, 1977 (1 day) St. Paul, Minnesota and will be held in Room 627, Federal Building, 316 North Robert Street.

MC-F-12927, Jones Truck Lines, Inc.—Purchase (Portion)—Transamerican Freight Lines, Inc., now assigned June 13, 1977 at Chicago, Illinois is postponed to August 2, 1977 in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois.

MC 29120 Sub 196, All-American, Inc. now being assigned September 19, 1977 (2 weeks) at Des Moines, Iowa in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15913 Filed 6-3-77;8:45 am]

[Expt. 122; Amdt. 5]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: The Baltimore and Ohio Railroad Company; The Chesapeake and Ohio Railway Company; Consolidated Rail Corporation; and Western Maryland Railway Company.

Upon further consideration of Exemption No. 122 issued April 2, 1976.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 122 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire July 31, 1977.

This amendment shall become effective May 31, 1977.

Issued at Washington, D.C., May 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-15914 Filed 6-3-77;8:45 am]

[Rev. Expt. 121; Amdt. 2]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: The Baltimore and Ohio Railroad Company; The Chesapeake and Ohio Railway Company; Norfolk and Western Railway Company; and Western Maryland Railway Company.

Upon further consideration of Revised Exemption No. 121 issued November 23, 1976.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 121 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire July 31, 1977.

This amendment shall become effective May 31, 1977.

Issued at Washington, D.C., May 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-15915 Filed 6-3-77;8:45 am]

[Expt. 127; Amdt. 4]

BESSEMER AND LAKE ERIE RAILROAD CO., ET AL.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: Bessemer and Lake Erie Railroad Company; The Baltimore and Ohio Railroad Company; The Chesapeake and Ohio Railway Company; and Western Maryland Railway Company.

Upon further consideration of Exemption No. 127 issued June 29, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 127 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire July 31, 1977.

This amendment shall become effective May 31, 1977.

Issued at Washington, D.C., May 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-15917 Filed 6-3-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 1, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before June 21, 1977.

FSA No. 43368—*Pipeline Rates—Petroleum Products from and to the Southwest.* Filed by Kaneb Pipe Line Company (KPL), (No. 4), for interested carriers.

Rates on petroleum products, as described in the application, from points in Kansas and Oklahoma, to specified points in Kansas, Nebraska, Iowa, South Dakota, and North Dakota.

Grounds for relief—Carrier competition.

Tariff—Kaneb Pipe Line Company tariff 1-H, I.C.C. No. 13.

Rates are published to become effective on July 1, 1977.

FSA No. 43369—*Joint Water-Rail Container Rates—Pacific Far East Line, Inc.* Filed by Pacific Far East Line, Inc. (No. 13), for itself and interested rail carriers.

Rates on general commodities, from rail stations on the U.S. Pacific and Gulf Seaboard, to Egyptian, Mediterranean, Middle Eastern, Greek and Turkish ports.

Grounds for relief—Water competition.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15916 Filed 6-3-77;8:45 am]

[Notice 174])

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before July 6, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

Finance Docket No. MC-28432, filed May 25, 1977. Transferee: YACHTS-O-FUN CRUISES, INC., 1130 N. Jantzen, Portland, Oreg. 97217. Transferor: James O. Lafferty, doing business as O.W.I. CHARTERS, 1130 N. Jantzen, Portland, Oreg. 97217. Applicants' representative: Dennis H. Elliott, Attorney-at-law, 555 Benjamin Franklin Plaza, Portland, Oreg. 97258. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate W-1269 (Sub-No. 1), issued May 25, 1977, as follows: Passengers in charter operations, between ports and points along the Columbia River in Washington and Oregon, extending from the mouth of the Columbia River at the Pacific Ocean to points 20 miles up stream from Pasco, Wash.; between ports and points along the Willamette River in Oregon, extending from the conflux of the Willamette and Columbia Rivers near Portland, Oreg., to Salem, Oreg.; and between ports and points along the Snake River in Idaho and Washington, extending from the conflux of the Snake and Columbia Rivers near Burbank, Wash., to Lewiston, Idaho. Transferee presently holds no authority from this Commission. Applicaiton has not been filed for temporary authority.

No. FD-28461, filed April 21, 1977. Transferee: SHIP-RITE TRANSPORTERS, INC., 210 Verdi St., Farmingdale, N.Y. 11735. Transferor: Empire Household Shipping Co. of New York, Inc., 210 Verdi St., Farmingdale, N.Y. 11735. Applicants' representative: S. Michael Richards, Raymond A. Richards, 44 North Ave., P.O. Box 225, Webster, N.Y. 14580. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit, No. FF-245 (Sub-No. 5), issued December 12, 1973, authorizing operations as a freight forwarder as follows: Used automobiles, from points in California, Washington, and Oregon, to points in Texas and Oklahoma. From points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming, to points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania and Virginia, and the District of Columbia. Restriction: The authority granted above is restricted to the transportation for export and import traffic. Used household goods and used automobiles, from points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wyoming, Alaska and Hawaii. Used household goods, from points in California, Washington, and Oregon, to points in Texas and Oklahoma. From points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and Wyoming to points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, and Virginia, and the District of Columbia. Unaccompanied baggage, between points in the United States (including Hawaii and Alaska), Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76969, filed April 26, 1977 Transferee: DALEY MOVING & STORAGE INC. of Florida, 1331 South Dixie Highway West, Pompano Beach, Fla. 33060, Transferor: MASSOOD TRANSFER & STORAGE, INC., 50 Madrid Lane, Davie, Fla. 33324. Applicants' representative. Ronald I. Shapss, attorney-at-law, 450 Seventh Ave., New York, N.Y. 10001. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-95180, issued October 4, 1976, as follows: Household goods as defined by the Commission, from points in Florida, Michigan, Indiana, Illinois, Ohio, North Carolina, South Carolina, and Georgia, to points in Maryland, New Jersey, Pennsylvania, Virginia, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77008, filed May 23, 1977. Transferee: PASSAIC VALLEY COACH LINES, a corporation, doing business as Passaic Valley Coaches, 179 Division Avenue, Summit, New Jersey, 07901.

Transferor: Summit-New Providence Bus Lines, Inc., 179 Division Avenue, Summit, New Jersey, 07901. Applicants' representative: William W. Braunwarth, 179 Division Avenue, Summit, New Jersey, 07901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 14715, issued May 3, 1973, as follows: Passengers and their baggage, restricted to traffic originating at the point and in the territory indicated, in charter operations, From New Providence, N.J., and points within 25 miles thereof, to Washington, D.C., New York, N.Y., and points in Nassau, Orange, Rockland, and Westchester Counties, N.Y., and return. From Summit, N.J., to Valley Forge, Scranton, and Philadelphia, Pa., and points in Monroe County, Pa., and return. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a (b).

No. MC–FC–77128, filed May 16, 1977. Transferee: 2–G TRANSPORTATION, INC., 10 E. Minnesota Street, Savage, Minn. 55378. Transferor: H. B. Nelson & Sons, Inc., P.O. Box 241, Alexandria, Minn. 56308. Applicant's representative: Val M. Higgins, attorney-at-law, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates No. MC 100300 (Sub-No. 2), MC 100300 (Sub-No. 7), MC 100300 (Sub-No. 10, and MC 100300 (Sub-No. 14), issued February 5, 1970, November 11, 1974, April 3, 1975, and July 13, 1976, as follows: Used bluegrass stripping machines between defined portions of Iowa, Minnesota, Missouri, Nebraska and South Dakota; bags for bluegrass stripping machines and seed, from Kansas City, Mo., and Barnesville, Minn., to portions of Minnesota and South Dakota; malt beverages from Minneapolis, Minn., to Wahpeton, N. Dak.; beverages and water from Minneapolis, Minn., to points in North Dakota; malt beverages from Milwaukee, Wis., Belleville, Ill. and St. Louis, Mo., to points in Minnesota and North Dakota, and from Olympia, Wash., to points in Minnesota, and supplies, materials and equipment on return; and those set forth in Permit No. MC 134469, issued August 2, 1971, as follows: Antifreeze, lubricating oils and greases, crop spray oils and cleaning agents and solvents from Minneapolis-St. Paul, Minn., to points in Minnesota, North Dakota, South Dakota and a described area in Iowa under a continuing contract with Farm-Oly Co. of Minneapolis, Minn. Transferee presently holds no authority from this Commission. Applicant has filed for temporary authority under Section 210a(b).

No. MC–FC–77130, filed May 18, 1977. Transferee: GREEN JORDAN, INC., 8th Ave., P.O. Box 225, Malone, Fla. 32455. Transferor: Green Jordan, Route 1, Box 166, Gordon Ala. 36343. Applicants' representative: David B. Erwin, attorney-at-law, 1030 E. Lafayette St., Suite 112, Tallahassee, Fla. 32301. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC 107573 (Sub-No. 1) and MC 107573 (Sub-No. 5), issued by the Commission December 29, 1947 and November 9, 1965, respectively, as follows: Peanuts and peanut products, except peanut oil and peanut butter, from Greenwood, Malone, and Graceville, Fla., and points within 35 miles of each, to points in Florida, Alabama, Georgia, South Carolina, North Carolina, Tennessee, and Virginia; empty sacks and seed peanuts in the shell, from points in Florida, Alabama, Georgia, South Carolina, North Carolina, Tennessee, and Virginia, to Greenwood, Malone, and Graceville, and points within 35 miles of each; dry fertilizer, from Montgomery and Dothan, Ala., and Adel, Albany, Cordele, and Meigs, Ga., to points in Jackson, Holmes, Washington, and Calhoun Counties, Fla. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77133, filed May 16, 1977. Transferee: Marvin Jay Hutchinson, doing business as HUTCHINSON TRANSFER, 309 East 3rd St., Thief River Falls, Minn. 56701. Transferor: Clara O'Hara, doing business as Fuel And Transfer Co., 309 East 3rd St., Thief River Falls, Minn. 56701. Applicants' representative: Marvin Hutchinson, 309 East 3rd St., Thief River Falls, Minn. 56701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 88619, issued September 18, 1974, as follows: *Household goods* as defined by the Commission, between points in Pennington, Marshall, Red Lake, and Roseau Counties, Minn., on the one hand, and, on the other, points in North Dakota and South Dakota. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77134, filed May 17, 1977. Transferee: Paul V. Klee, an individual doing business as CRAIG'S EXPRESS, Elm St. Route 2, Falmouth, Ky. 41040. Transferor: Robert E. Campbell, an individual doing business as Craig's Express, 4th and Montjoy, Falmouth, Ky. 41040. Applicant's representative: Robert H. Kinker, attorney at law, 314 W. Main, P.O. Box 464, Frankfurt, Ky. 40601. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate, No. MC 48528 Sub-1, issued July 20, 19751, as follows: General commodities, with exceptions, over regular routes, between Cincinnati, Ohio, and Berry, Ky.: from Cincinnati across the Ohio River to Covington, Ky., thence over Kentucky Highway 17 to junction U.S. Highway 27, thence over U.S. Highway 27 to Red Star Inn, Ky., thence over U.S. Highway 27 to junction county road known as "Ten-Foot Pike", thence over "Ten-Foot Pike" to Kelat, Ky., and thence over unnumbered highway to Berry, and return over the same route. Between Boyd, Ky., and junction county road known as "Broadford Pike" and U.S. Highway 27: From Boyd over "Broadford Pike" to junction U.S. Highway 27, and return over the same route. Between Locust Grove, Ky., and junction Kentucky Highway 22 and U.S. Highway 27: From Locust Grove over Kentucky Highway 22 via Goforth, Ky., to junction U.S. Highway 27, and return over the same route. Between Goforth, Ky., and Falmouth, Ky.: From Goforth over county road known as "Fishing Creek Pike" to Falmouth, and return over the same route. Service is authorized to and from all intermediate points and off-route points within three miles of the above-specified routes, excluding points on U.S. Highway 25 south of Covington, Ky. Between Cincinnati, Ohio, and junction U.S. Highway 27 and Kentucky Highway 17: From Cincinnati over U.S. Highway 27 to junction Kentucky Highway 17, and return over the same route. Service is authorized to and from all intermediate points and off-route points within three miles of that portion of the route south of Alexandria, Ky., excluding Alexandria, Ky. Service is authorized to and from points in the Cincinnati, Ohio, commercial zone as defined by the Commission, as off-route points in connection with the above described regular-route operations to and from Cincinnati, Ohio. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77135, filed May 19, 1977. Transferee: TRANS WEST CARRIERS, INC., 111 Erie Street, Pomona, California 91768. Transferor: S P S Transport Co., 837 West State Street, Ontario, California 91761. Applicants' representative: Jerry Solomon Berger, 433 North Camden Drive, 6th Floor, Beverly Hills, California 90210. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC–139967 issued January 16, 1976, as follows: Paper products, from the plant site of Concel, Inc., located at or near LaPalma, Calif., to points in Arizona, Nevada, Oregon, and Washington and tissue paper, from St. Helens, Oreg., to the plant site of Concel, Inc., located at or near LaPalma, Calif. Restriction: The operations authorized are limited to a transportation service to be performed, under a continuing contract, or contracts with Concel, Inc., of LaPalma, Calif. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77137, filed May 19, 1977. Transferee: VALLEY TRANSPORTATION, INC., 516 Oxford Road, Oxford, Connecticut 06483. Transferor: Stephen J. McMahon, doing business as McMahon Tour Agency, 281 Fairfield Avenue, Bridgeport, Conn. 06604. Applicants' representative: L. C. Major, Jr., attorney-at-

law, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, Va. 22312. Authority sought for purchase by transferee of the operating rights of transferor set forth in Broker's License No. MC 12723, issued November 30, 1961, authorizing operations as a broker at Bridgeport, Conn., in connection with the transportation by motor vehicle in interstate or foreign commerce, of passengers and their baggage in special or charter operations, in round-trip, all expense tours, beginning and ending at points in Fairfield, New Haven, and Hartford Counties, Conn., and extending to points in the United States (including Alaska and excepting Hawaii). Transferee presently holds authority from this Commission under Certificates No. MC 109865 (Sub-No. 5) and MC 109865 (Sub-No. 13).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15910 Filed 6-3-77;8:45 am]

[Notice No. 69]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 2, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2052 (Sub-No. 12TA), filed May 17, 1977. Applicant: BLAIR TRANSFER, INC., 203 South 9th Street, Blair, Nebr. 68008. Applicant's representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* utilized in crafts, art and hobbies (except commodities in bulk), between the facilities of Artex Hobby Products, Inc., located at or near Lima, Ohio, on the one hand, and, on the other, the facilities of Artex Hobby Products, Inc. located at or near Blair, Nebr., for 180 days. Supporting shipper(s): R. D. Hickey, Traffic Consultant, Artex Hobby Products, Inc. 35300 Lakeland Blvd., East Lake, Ohio. 44049. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 3854 (Sub-No. 36TA), filed May 9, 1977. Applicant: BURTON LINES, INC., P.O. Box 11306 (815 Ellis Rd), East Durham Station, Durham, N.C. 22703. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and shale products, pipe, conduit, wall coping, firebrick, fittings, fitting compounds, and materials and supplies* used in the installation thereof (except in bulk), from Pottstown, Pa., to points in Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, and Florida, for 180 days. Supporting shipper: Pomona Pipe Products, P.O. Box 20400, Greensboro, N.C. 27420. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 32779 (Sub-No. 12TA) (correction), filed April 19, 1977. Applicant: SILVER EAGLE COMPANY, 2532 S.E. Hawthorne Boulevard, Portland, Oreg. 97214. Applicant's representative: Robert R. Hollis, 520 S.W. Yamhill St., Suite 400, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment, (1) between Spokane, Wash., and Seattle, Wash., and their respective Commercial Zones, serving intermediate and off-route points in Lincoln, Adams, Grant and Kittitas Counties, Wash.; From Spokane over Interstate Highway 90 to Seattle and return over the same route. (2) Between Spokane, Wash., and Portland, Oreg., and their respective Commercial Zones serving intermediate and off-route points in Lincoln, Adams, Franklin, Walla Walla, Benton and Klickitat Counties, Wash.: From Spokane over Interstate 90 to junction U.S. Highway 395, thence over U.S. Highway 395 to junction U.S. Highway 730, thence over U.S. Highway 730 to junction Interstate Highway 80 north, thence over Interstate Highway 80 north to Portland and return over the same route. (3) Between Pasco, Wash., and Wenatchee, Wash., and their respective Commercial Zones, serving intermediate and off-route points in Benton, Yakima and Kittitas Counties, Wash.: From Pasco over U.S. Highway 12 to junction U.S. Highway 97, thence over U.S. Highway 97 to Wenatchee and return over the same route, for 180 days. Applicant intends to interline at Portland, Oreg., Seattle, and Spokane, Wash., and other interline points. Supporting shipper(s): There are 68 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Portland, Oreg., at the field office named below. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, Oreg. 97204. The purpose of this republication is to indicate tacking.

No. MC 78118 (Sub-No. 35TA), filed May 12, 1977. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, Pa. 17602. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, not exceeding 1 gallon in capacity, from the plantsite and shipping facilities of Glass Containers Corporation in the Borough of Knox and the Townships of Paint and Elk, Clarion County, the borough of Marienville, Forest County, and the Borough of Parker, Armstrong County, Pa., to points in New Jersey for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Glass Containers Corporation, Knox, Pa. 16232. Send protest to: Robert P. Amerine, District Supervisor, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 96992 (Sub-No. 2TA), filed May 9, 1977. Applicant: HIGHWAY PIPELINE TRUCKING, CO., P.O. Box 1517, Edinburg, Tex. 78539. Applicant's representative: Atlas, 818 Pecan, McAllen, Tex. 78501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, from the plant site of H & H Meat Products, Inc. at Mercedes, Tex., and/or storage facilities of Tex-Mex Cold Storage at Brownsville, Tex., also used by H & H Meat Products, Inc., to Watertown, Mass., Bayonne, N.J., Philadelphia, Pa., Landover, Md., Williamsburg, Va., Columbia, S.C., Tampa, Fla., Jacksonville, Fla., Chicago, Ill., Nashville, Tenn., Birmingham, Ala., Harahan, La., Kansas City, Mo., Denver, Colo. Seattle, Wash., San Diego, Calif., Alameda, Calif., and Los Angeles, Calif., for 180 days. Applicant has also filed an

underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H & H Meat Products, Inc., P.O. Box 358, Mercedes, Tex. 78570. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Rm. B-400 Federal Building, 727 E. Durango, San Antonio, Tex. 78206.

No. MC 98952 (Sub-No. 46TA), filed May 9, 1977. Applicant: GENERAL TRANSFER COMPANY, 2880 North Woodford St., Decatur, Ill. 62526. Applicant's representative: Paul E. Steinhour, 918 E. Capitol Avenue, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, candy or confectionery*, from the storage facilities of the Nestle Company at or near Columbus, Ohio to points in Indiana, restricted to the transportation of shipments moving in vehicles equipped with mechanical refrigeration. Further restricted to shipments originating at the named origin and destined to the named destination, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Daniel A. Lorusso, Manager Transportation, The Nestle Company, Inc., 100 Bloomingdale Road, White Plains, N.Y. 10605. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 106674 (Sub-No. 229TA), filed May 3, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from ports of entry on the International Boundary Line between the United States and Canada located at Port Huron and Detroit, Mich., to points in Michigan and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beker Industries Corp., 124 W. Putnam Avenue, Greenwich, Conn. 06830. Send protests to J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 107295 (Sub-No. 851TA), filed May 10, 1977. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building mortar dry, concrete surface curing compound, and adhesive pastes; and any tools* used in the application thereof, from the plantsite of the UPCO Company at Cleveland, Ohio, to Massachusetts, Michigan, North Carolina, South Carolina, Oklahoma, Colorado, and Iowa for 180 days. Supporting shipper(s): George Selden, President, UPCO Company, 4805 Lexington Avenue, Cleveland, Ohio 44103. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 109825 (Sub-No. 10TA), filed May 10, 1977. Applicant: MASHKIN FREIGHT LINES, INC., 64 Oakland Street, East Hartford, Conn. 06108. Applicant's representative: Hugh M. Joseloff, 80 State Street, Hartford, Conn. 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from the facilities of First National Stores, Inc., located in East Hartford, Conn., to points in Maine, New Hampshire, and Vermont for 180 days. Supporting shipper(s): First National Stores, Inc., Park and Oakland Avenues, East Hartford, Conn. 06108. Send protests to: J. D. Perry, Jr., Interstate Commerce Commission, Bureau of Operations, 135 High Street, Rm. 324, Hartford, Conn. 06101.

No. MC 110988 (Sub-No. 341TA), filed May 4, 1977. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Giltedge Bldg., Appleton, Wis. 54911. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solution*, in bulk, in tank vehicles, from LaCrosse, Wis., to points in Minnesota and Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hawkeye Chemical Company, P.O. Box 899, Clinton, Iowa 52732. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 111170 (Sub-No. 235TA), filed May 2, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 N. West Ave., El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alumina*, in bulk, from Bauxite, Ark., to points in Texas, for 180 days. Supporting shipper(s): Reynolds Metals Company, P.O. Box 27003, Richmond, Va. 23261. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111729 (Sub-No. 703TA), filed May 16, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch, Purolator Courier Corp., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Proofs, cuts, copy, artwork, photographs, mechanicals and advertising material*, between Brattleboro, Vt., on the one hand, and, on the other, Hartford and Plainfield, Conn., Amherst, Boston, Holyoke, South Hadley and Wellesley, Mass., New Brunswick, N.J., Ithaca and New York, N.Y., Bethlehem and Philadelphia, Pa., and Cranston, R.I., for 180 days. Supporting shipper(s): The Vermont Printing Company, Box 816, Brattleboro, Vt. 05301. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111940 (Sub-No. 68TA), filed May 10, 1977. Applicant: SMITH'S TRUCK LINES, P.O. Box 88, R.D. No. 2, Muncy, Pa. 17756. Applicant's representative: John M. Musselman, P.O. Box 1146, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except in bulk), vehicle body sealer, and sound deadener compound, from New Kensington, Pa., to points in Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quaker Oil Refining Corporation, P.O. Box 989, Oil City, Pa. 16301. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 113855 (Sub-No. 375TA), filed May 9, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road S.E., Rochester, Minn. 55901. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, from Lancaster County, Nebr., to points in Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Rhode Island, Pennsylvania, South Dakota, Utah, Vermont, Washington, Wisconsin and Wyoming, including ports of entry between the United States and Canada located in Washington, Idaho, Montana, North Dakota, Minnesota, Michigan and New York, restricted to traffic originating at facilities used by Kawaski Motors Corp., U.S.A., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kawaski Motors Corp., U.S.A., 2009 E. Edinger Avenue, P.O. Box 11447, Santa Ana, Calif., 92711. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 114416 (Sub-No. 7TA), filed May 9, 1977. Applicant: WESTERN

TRANSPORT CRANE & RIGGING, Route 9, Grant Creek Road, Missoula, Mont. 59801. Applicant's representative: Douglas N. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors equipment, sawmill and mining machinery and equipment, and U.S. Forest Service equipment and supplies* between all points and places in the States of Montana, Oregon, that portion of the State of Idaho south of the southern boundary of Idaho County, and that portion of the State of Washington west of U.S. Highway 97, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 6 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Paul J. Labane, 2620 First Avenue North, Billings, Mont. 59101.

No. MC 114457 (Sub-No. 304TA), filed May 5, 1977. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, Suite 2103, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and equipment, materials and supplies* used in the manufacture and distribution of the described commodities (except commodities in bulk), from Perrysburg, Ohio to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Upper Peninsula of Michigan, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, South Dakota, Tennessee, Texas and Wisconsin, for 180 days. Supporting shipper: Crown Cork & Seal Co., Inc., 9300 Ashton Road, Philadelphia, Pa. 19136. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 114569 (Sub-No. 178TA), filed May 17, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in mechanically refrigerated trailers, from the shipping facilities of Donetta Foods, Inc., at or near Gaithersburg, Md., to Chicago, Ill.; Detroit, Grand Rapids, and Saginaw, Mich.; Cincinnati, Toledo, Cleveland, Dayton, and Columbus, Ohio; Louisville, Ky.; New Orleans, La.; Kansas City, Mo.; Nashville, Tenn.; Indianapolis, Ind.; and points in commercial zones of the named destinations for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Donetta Foods, Inc., 601 Cedar Street, Scranton, Pa. 18505. Send protests to: Robert P. Amerine, Dist. Supv., Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 115311 (Sub-No. 221TA), filed May 10, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising matter*, from Pabst, Houston County, Ga., to points in Arkansas, Kentucky, Louisiana, Virginia, and those points in Tennessee west of Interstate Highway 65 for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pabst Brewing Company, 917 W. Juneau Avenue, Milwaukee, Wis., 53201. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 115496 (Sub-No. 49TA), filed May 10, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Hwy 23 South, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and empty malt beverage containers, pallets, and spoiled malt beverages returned*, from the facilities of Pabst Brewing Company located at Houston County, Ga., to points in Florida, North Carolina, South Carolina, Louisiana, Kentucky, Illinois, Indiana, Ohio, Wisconsin and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pabst Brewing Company, 917 West Juneau Avenue, Milwaukee, Wis. 53201. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N. W., Room 546, Atlanta, Ga. 30309.

No. MC 115496 (Sub-No. 50TA), filed May 10, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Hwy. 23 South, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsite of Building Products Division, Gilman Paper Company located approximately eight (8) miles Northwest of Middleburg, Clay County, Fla., to points in Georgia on and south of U.S. Highway 80 for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gilman Paper Company, P.O. Box 520, St. Marys, Ga. 31558. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N. W., Room 546, Atlanta, Ga. 30309.

No. MC 115821 (Sub-No. 23TA), filed May 10, 1977. Applicant: FRANK BEELMAN, doing business as BEELMAN TRUCK CO., St. Libory, Ill. 62282. Applicant's representative: Ernest A. Brooks, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, from the facilities of Big Rivers Electric Corp., at or near Sebree, Ky., to points in Tennessee, Indiana and Illinois, for 180 days. Supporting shipper: L. Michael Shydlowski, Southern Dist. Mgr., American Admixtures Corporation, 1200 Hanley Industrial Ct., St. Louis, Mo. 63144. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 116763 (Sub-No. 379TA), filed May 9, 1977. Applicant: CARL TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Newsprint paper and groundwood paper, from the plantsite and warehouse facilities of Bowater Southern Paper Corp. located at or near McMinn County, Tenn., to points in Illinois, Indiana, Kentucky, and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bowater Southern Paper Corporation, Calhoun, Tenn. 37309. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 117165 (Sub-No. 41TA), filed May 9, 1977. Applicant: ST. LOUIS FREIGHT LINES, INC., 413 U.S. Highway 20 West, Michigan, City, Ind. 46360. Applicant's representative: Walter G. Bay (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from plantsite of the Johns-Manville Sales Corporation at or near Natchez, Miss., to the plantsite and warehouse facilities of the Celotex Corporation at or near Elizabethtown, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corporation, 1500 N. Dale Mabry, Tampa, Fla.33622. Send protests to: J. H. Gray, District Supervisor, Interstate

Commerce Commission, 343 West Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 118535 (Sub-No. 99TA), filed May 9, 1977. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Tom Ventura (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet Food* from the plantsite and facilities utilized by Strong heart Products, Incorporated at or near Kansas City, Kans., to all points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Strongheart Products, Inc., 300 S. 55th St., Kansas City, Kans. 66106. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 118806 (Sub-No. 54TA), filed May 11, 1977. Applicant: ARNOLD BROS. TRANSPORT, LTD., 739 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J OT8. Applicant's representative: Paul R. Bergant, 10 South LaSalle Street, Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational vehicles*, from Lincoln, Nebr., to the ports of entry on the International Boundary Line between Canada and the United States near Noyes, Minn., and Portal, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sno-Trac Equipment, Ltd., P.O. Box 722, Regina, Saskatchewan, Canada, R. G. Corbett Sales, 1810 St. Matthews Avenue, Winnipeg, Manitoba, Canada. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 119493 (Sub-No. 149TA), filed May 9, 1977. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th St. Road, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 58 South Main, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cordage & cordage products, viz: rope; twine, bailer; twine, binder twine, industrial tying; twine, plastic;* Sisal Products not otherwise specified, from Kansas City, Mo. to all points and places in the States of Iowa, Kansas, Nebraska and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmland Industries, Inc., 3315 North Oak Trafficway, Kansas City, Mo. 64116. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119726 (Sub-No. 88TA), filed May 5, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 E. Washington, St., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor sweeping compounds and Absorbents*, from the plantsite of Oil-Dri Corporation of America located at or near Ripley, Mass., and Ochlocknee, Ga., as follows: From Ripley, Mass., to Hopkins, Minn., Omaha, Nebr., Kansas City, Kans., Kansas City and St. Louis, Mo., Detroit, Mich., Pittsburgh, Pa., and points in the states of Illinois, Indiana, Iowa, Ohio, and Tennessee, via irregular routes, From Ochlocknee, Ga., to points in the states of Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Ohio and Wisconsin, via irregular routes, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oil-Dri Corporation of America, 520 N. Michigan Ave., Chicago, Ill. 60611. Send protests to: William S. Ennis District Supervisor, Interstate Commerce Commission, Federal Bldg & U.S. Courthouse, 46 East Ohio St., Rm. 429, Indianapolis, Ind. 46204.

No. MC 119988 (Sub-No. 112TA), filed April 28, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Highway 103 East, Lufkin, Tex. 75901. Applicant's representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires*, from points in Oklahoma County, Okla., to stores, warehouses and facilities of Western Auto Supply Company at points in the United States except Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Western Auto Supply Co., 2107 Grand Ave., Kansas City, Mo. 64108. Send protests to: District Supervisor John Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 123872 (Sub-No. 72TA), filed May 10, 1977. Applicant: W & L MOTOR LINES, INC., P.O. Drawer 2607, State Rd. 1148, Hickory, N.C. 28601. Applicant's representative: Allen E. Bowman, P.O. Box 2607, Hickory, N.C. 28601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat-by-products and articles distributed by meat packinghouses* as described in Sections A & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodites in bulk), from the plantsite and storage facilities of The Rath Packing Company, located at or near Waterloo and Columbus Junction, Iowa, to points in Kentucky, North Carolina and South Carolina for 180 days. Supporting shipper(s): The Rath Packing Company, Sycamore & Elm Street, Waterloo, Iowa. 50704. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 124673 (Sub-No. 23TA), filed May 16, 1977. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Pullman Road, South, Amarillo, Tex. 79105. Applicant's representative: Gail P. Johnson, P.O. Box 2167, Amarillo, Tex. 79105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and bonemeal, bloodmeal and dry rendered tankage*, from the plantsite and storage facilities of Swift Fresh Meat Co. at or near Cactus, Tex., to points in Arkansas, Louisiana—on and west of U.S. Highway 165, and Oklahoma for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Fresh Meats Company, 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 124679 (Sub-No. 78TA), filed May 12, 1977. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: Daniel E. England, Nelson, Harding, Richards, Leonard & Tate, 300 Arrow Press Square Bldg., No. 2, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared fish foods*, from Spring City, Pa., and Burlington, N.J., to points in Illinois, Michigan, Kansas, Ohio, Minnesota, Colorado, Washington, California, Texas, and Louisiana for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pennsylvania Pet Products, Inc. P.O. Box 1191, Spring City, Pa. 19475. (Robert A. Maxwell, President) Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 124920 (Sub-No. 13TA), filed May 6, 1977. Applicant: LABAR'S INC., 771 Scott Street, Wilkes-Barre, Pa. 18705. Applicant's representative: L. Agnew Myers, Jr., Suite 406–08 Walker Building, 734 15th Street, N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool and insulating material*, from Mountaintop, Pa., plant site or facilities of Certain-Teed Products Corp., CSG Group, to points in the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Virginia, Vermont, District of Columbia, Michigan, Ohio, Indiana, Illinois, Kentucky, West Virginia, and Wisconsin, for 180 days, supporting shipper: Certainteed Corporation, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: Paul

J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 126118 (Sub-No. 41TA), filed May 16, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers; From Fort Worth, Texas and Milwaukee, Wis., and their commercial zones to points in South Carolina. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Frank J. Lombardi, President, Frank Distributing Co., Inc., Box 801 Anderson, S.C. 29622 Jack Mullinax, President Western Beverage Box 841, Taylor, S.C. 29687. Send protests to: Max H. Johnston, District Supervisor 285 Federal Building and Court House, 100 Centennial Mall North Lincoln, Nebr. 68508.

No. MC 126276 (Sub-No. 175TA), filed May 2, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 N. La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plantsites of American Can Company located at Hammond, Ind.; Hoopston, Ill., and St. Louis, Mo., to Nashua, N.H., under a continuing contract or contracts with American Can Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Can Company, William Frazier, Transportation Coordinator, 915 Harger Road, Oak Brook, Ill. 60521. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 128007 (Sub-100TA), filed May 17, 1977. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Drive, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa meal and Alfalfa pellets*, in bulk, from the plantsite and storage facilities of Protein Processors, Division of Ralston Purina Co., at or near Dundee, Kans., to points in Missouri and Arkansas for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ralston Purina Company, 835 South 8th, St. Louis, Mo. 63188. Send protests to: M. E. Taylor, District Supervisor Interstate Commerce Commission, Suite 101 Litwin Building, Wichita, Kans. 67202.

No. MC 128896 (Sub-No. 5TA), filed May 11, 1977. Applicant: ANDREWS TRUCKING LIMITED, R.R. No. 4, St. Catharines, Ontario, Canada L2R 6R1. Applicant's representative: Robert G. Gawley, P.O. Box 184, Buffalo, N.Y. 14221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, between the ports of entry on the International Boundary line between the United States and Canada located on the British Columbia and Idaho-Washington border, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii), for 180 days. Supporting shipper(s): C & C Yachts, 526 Regent Street, Niagara on the Lake, Ontario. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 129325 (Sub-No. 10TA), filed May 10, 1977. Applicant: DIAZ MOTOR FREIGHT INC., 2829 Frenchmen St., P.O. Box 8266, New Orleans, La. 70122. Applicant's representative: Mr. Joseph G. Dail, Jr., P.O. Box 567, McLean, Va. 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire rods and reinforcing bars* from the facilities of Georgetown Texas Steel Corp., at or near Beaumont, Tex., to the facilities of Primary Steel, Inc., at Jefferson and New Orleans, La., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Primary Steel, Inc., P.O. Box 10426, Jefferson, La. 70181. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Avenue, 9038 U.S. Postal Service Building, New Orleans, La. 70113.

No. MC 133095 (Sub-No. 158TA), filed May 10, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Television sets, record players, radios, home entertainment centers, and electronic equipment*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of such commodities (except in bulk), between Los Angeles and San Francisco, Calif., on the one hand, and, on the other, Athens, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Curtis Mathes Mfg. Co., P.O. Box 151, Athens, Tex. 75751. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 133566 (Sub-No. 84TA), filed May 3, 1977. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, One World Trade Center, Suite 1573, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-frozen foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles). From the plantsite and storage facilities of Duffy-Mott Company at or near Hamlin and Williamson, N.Y., to points in the states of Michigan, Indiana, Illinois, Iowa, Nebraska, Minnesota, Wisconsin, Colorado and Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Duffy-Mott Company, Inc., 370 Lexington Avenue, New York, N.Y. 10017. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 134477 (Sub-No. 171TA), filed May 9, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products* (except commodities in bulk), from the plantsite of Charms Company at or near Covington, Tenn., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas and Wisconsin, restricted to traffic originating at the above named origin and destined to the above named destination states, for 180 days. Supporting shipper: Charms Company, Halls Mills Rd., Freehold, N.J. 07728. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 135197 (Sub-No. 11TA), filed May 2, 1977. Applicant: LEESER TRANSPORTATION, INC., Route 3, Palmyra, Mo. 63461. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diethyl dithio phosphoric acid*, in bulk, in tank vehicles, from: the plant site of American Cyanamid Company South River, Marion County, Mo. to: Warners, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Cyanamid Company, P.O. Box 400, Princeton, N.J. 08540. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 135684 (Sub-No. 39TA), filed May 9, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, Federal Bar Building West, 1819

H Street, N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail and chain grocery, hardware and drug stores, in containers (except fresh meats and furniture), from Chamblee, Ga., to commercial zones of Alexandria, Baton Rouge, Broussard, Camp Plauche, Church Point, Delcambre, Houma, Lafayette, Monroe, New Iberia, New Orleans, Opelousas and Thibodaux, La., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Boyle Midway Division, American Home Products Corporation, 685 Third Avenue, New York, N.Y. 10017. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Rm. 204, Trenton, N.J. 08608.

No. MC 136315 (Sub-No. 14TA), filed May 9, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plantsites of Georgia Pacific Corporation, at Louisville and Taylorsville, Miss., to points in Alabama, Florida, Georgia, Kentucky, Illinois, Indiana, Missouri, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corporation, P.O. Box 520, Crossett, Ark. 71635. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Rm. 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 138328 (Sub-No. 38TA), filed May 16, 1977. Applicant: Clarence L. Werner, d.b.a. WERNER ENTERPRISES, 14507 Frontier Rd., P.O. Box 37308, Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down or in sections, and *component parts, materials, supplies and fixtures, and accessories* used in the erection and construction of buildings. From the facilities of Mitchell Engineering Company, division of The Ceco Corporation, located at or near Mount Pleasant, Iowa, to points in Idaho, Oregon, and Utah for 180 days. Supporting shipper(s): D. R. D'Argento, Assistant Traffic Manager, Mitchell Engineering Company, Division of The Ceco Corporation, 5601 West 26th Street, Chicago, Ill. 60650. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 138359 (Sub-No. 8TA), filed May 11, 1977. Applicant: LENNEMAN TRANSPORT, INC., 10 North Michigan St., Hutchinson, Minn. 55350. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Memphis, Tenn., to Hutchinson, Minn., under a continuing contract or contracts with Lenneman Beverage Distributors, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lenneman Beverage Distributors, Inc., Hutchinson, Minn. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 140878 (Sub-No. 2TA), filed May 6, 1977. Applicant: SOUTHSIDE TRUCKING CO., INC., 401 Murry's Avenue, Alexandria, Va. 22301. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation*, and (2) *equipment, materials, and supplies* used in the manufacture, sale, distribution, and installation of insulation, between the facilities of Cellin Manufacturing, Inc., at Lorton, Va., and Guilderland, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Virginia, and West Virginia, restricted in (1) and (2) above (A) against the transportation of commodities in bulk, and (B) to the performance of a transportation service under a continuing contract or contracts with Cellin Manufacturing, Inc., of Lorton, Va., for 180 days. Supporting shipper(s): Cellin Manufacturing, Inc., 9610 Gunston Road, Lorton, Va. 22079. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Room 1413, District Supervisor W. C. Hersman, Washington, D.C. 20423.

No. MC 143061 (Sub-No. 1TA), filed May 9, 1977. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 338, Eden, N.C. 27288. Applicant's representative: K. Edward Wolcott, 1600 Frist Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical equipment, devices, products, related items, and parts thereof, and commodities* used by and dealt in by manufacturers thereof (except in bulk, commodities which because of size or weight require special equipment and aerospace craft and aerospace craft parts), (a) between Somersworth, N.H., Pittsfield, Mass., and Rotterdam, N.Y.; and (b) between the facilities of General Electric Company, located at or near Somersworth, N.H.; Pittsfield, Mass., Rotterdam, N.Y.; Salisbury, Hickory and East Flat Rock, N.C.; on the one hand, and, on the other, points in the United States on and West of the eastern state boundary lines of Wisconsin, Iowa, Missouri, Arkansas, and Louisiana; and points in the upper peninsula of Michigan, the above service will be provided under a continuing contract with General Electric Company, for 180 days. Supporting shipper: General Electric Company, Specialist-Physical Distribution, 1285 Boston Ave., Bridgeport, Conn. 06602. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 143183 (Sub-No. 1TA), filed May 3, 1977. Applicant: L. M. Roach, doing business as D & L TRUCKING COMPANY, P.O. Box 1741, (145 Sampson Road), Wilmington, N.C. 28401. Applicant's representative: Ralph McDonald, P.O. Box 2246, (336 Fayetteville St.), Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer materials*, in bulk, in dump vehicles, from New Hanover, Columbus and Brunswick Counties, N.C., to points in South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): W. R. Grace & Co., Agricultural Chemicals Group, P.O. Box 368, Wilmington, N.C. 28401. Wilmington Fertilizer Company, P.O. Box 700, Wilmington, N.C. 28401. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 143184 (Sub-No. 1TA), filed May 3, 1977. Applicant: Darrel W. Price, doing business as MODULAR WEST TRANSPORT, 349 33rd Street, Ogden, Utah 84401. Applicant's representative: Frank M. Wells, 550 24th Street, Ogden, Utah 84401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Modular homes*, commercial or residential; buildings may contain equipment or furnishings, from 933 Wall Ave., Ogden, Utah to all points in Wyoming, Montana, Colorado, Nevada, Idaho, Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): First Rocky Mountain Corporation, 933 Wall Ave., Ogden, Utah 84401 (Raphael Mecham, President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 143204TA, filed April 22, 1977. Applicant: CITY TRANSFER COMPANY, INC., 421 E. Second St., Owensboro, Ky. 42301. Applicant's representative: Paul E. Bugay, 227 St. Ann St., P.O. Box 295, Owensboro, Ky. 42301. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes,

transporting: (1) *Aluminum, and materials, supplies, and equipment* used in the manufacture and production of aluminum, moving in semitrailers having prior or subsequent rail transportation and empty trailers, between Owensboro, Daviess County, Ky., and rail yards within the commercial zone of Owensboro, Ky., as defined by the Interstate Commerce Commission, on the one hand, and, on the other, plant sites and storage facilities of National Aluminum Division of National Steel Corporation, and Martin Marietta Aluminum Company, in Hancock County, Ky., and Barmet Industries, Inc., in McLean County, Ky., and (2) *Aluminum wire, cable, ingots, rod, steel wire, and materials, supplies, and equipment* used in the manufacture and production thereof, including *empty steel and wooden reels*, moving in semitrailers having prior or subsequent rail transportation, and empty trailers, between Owensboro, Daviess County, Ky., and rail yards within the commercial zone of Owensboro, Ky., as defined by the Interstate Commerce Commission, on the one hand, and, on the other, plant sites and storage facilities of Southwire Company-Kentucky Division, in Hancock County, Ky. for 180 days. Supporting shipper: H. A. Estabrook, Exec. V.P. Metal Exchange Corp., 111 West Port Plaza, Suite 704, St. Louis, Mo. 63141, Frank D. Jones, Asst. V.P. Southwire Company, P.O. Box 1000, Carrollton, Ga. 30117, John A. Grunigen, Jr., Plant Mgr., Barmet of Kentucky, Inc., P.O. Box 98, Utica, Ky. 42376, Paul L. Klinvex, Director, Traffic & Transportation National Aluminum, 26000 Grant Bldg., Pittsburgh, Pa. 15219. Send protests to: District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 143211 (Sub-No. 1TA), filed May 9, 1977. Applicant: IRA LEE WALKER, P.O. Box 836, 410 Bleckley St., Anderson, S.C. 29622. Applicant's representative: Richard C. Otter, P.O. Box 273, Anderson, S.C. 29622. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum corrugated alloy pipe*, between Anderson County, S.C., on the one hand, and, on the other, points and places in Georgia and North Carolina, restricted to a transportation service under a continuing contract with Kaiser Aluminum and Chemical Sales, Inc., under a continuing contract or contracts with Kaiser Aluminum & Chemical Sales, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Aluminum & Chemical Sales, Inc., 4425 Randolph Rd., Suite 205, Charlotte, N.C. 28211. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, S.C. 29201.

No. MC 143260TA, filed May 13, 1977. Applicant: B & M ENTERPRISES, INC., 3801 North Grove Street, Fort Worth, Tex. 76106. Applicant's representative: Harry F. Horak, Rm. 109, 500 Brentwood Stair Road, Fort Worth, Tex. 76112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Horse meat*, from Forth Worth, Tex., to Houston, Tex., for subsequent movement by water in foreign commerce, under continuing contract or contracts with Beltex Corporation for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beltex Corporation, 3801 North Grove, P.O. Box 4589, Fort Worth, Tex. 76106. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 143262TA, filed May 9, 1977. Applicant: PETERSBURG TRANSPORT, INC., 2100 Alaskan Way, Seattle, Wash. 98121. Applicant's representative: Robert G. Gleason, 1127 10th Street, Seattle, Wash. 98102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, foodstuffs and freight* requiring temperature control, except Class A and B explosives, and household goods, between Seattle, Wash., and Petersburg and Kake, Alaska for 180 days. Supporting shipper(s): Application is supported by more than 10 letters of support. The statements may be inspected at the Interstate Commerce Commission in Washington, D.C. 20423, or at the Seattle office. Send protests to: L. D. Boone, Transportation Specialists, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.

No. MC 143271TA, filed May 16, 1977. Applicant: CAPITAL CITY TRUCK GARAGE AND TRUCKING COMPANY, INCORPORATED, 3017 Tarwick Rd., Raleigh, N.C. 27604. Applicant's representative: Robert T. Hedrick, 3311 North Boulevard, Raleigh, N.C. 27604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and pineapples*, from New York, N.Y.; Newark, N.J.; Wilmington, Del.; Baltimore, Md.; Charleston, S.C.; Tampa, Fla.; Gulfport, Miss.; to North Carolina and South Carolina for 180 days. Supporting shipper(s): Austin Fruit, Inc., Box 11322, Raleigh, N.C. 27604. Castle and Cooke Foods, 6808 Foxfire Place, Raleigh, N.C. 27609. Colonial Stores, Inc., 2233 N. Blvd., Raleigh, N.C. 27609. Send protests to: Archie W. Andrews, Dist. Supvr., Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611. May 16, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15911 Filed 6-3-77;8:45 am]

[Notice 70]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 2, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 720 (Sub-No. 28TA), filed May 13, 1977. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, Wis. 53968. Applicant's representative: Michael Wyngaard, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, foodstuffs, canned goods and materials, equipment and supplies* used or useful in the sale or distribution of frozen foods, foodstuffs and canned goods, (a) from the plant and warehouse facilities of Mass Feeding Corporation at Darien, Wis., to Brockton, Mass., and Stratford, Conn.; and (b) from the plant and warehouse facilities of Mass Feeding Corporation at Elk Grove Village, Ill., to Brockton, Mass.; and Stratford, Conn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mass Feeding Corporation, 2241 Pratt Blvd., Elk Grove Village, Ill. 60007. (Wm. L. Smith) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 52579 (Sub-No. 163TA), filed May 19, 1977. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Irwin Rosen, Gilbert Carrier

Corp., One Gilbert Drive, Secaucus, N.J. 07094. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel on hangers*, from Decherd, Tenn., to Atlanta, Ga.; Columbus, Ohio.; Wilmington, Del., for 180 days. Supporting shipper(s): Oxford Industries, Inc. 222 Piedmont Avenue, N.E. Atlanta, Ga. 30308. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 61231 (Sub-No. 104TA), filed May 11, 1977. Applicant: ACE LINES, INC., 4143 East 43rd Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk), between International Falls, Minn., on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Michigan, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Texas and Wisconsin. Carrier proposes to interline with another carrier at International Falls, Minn. to handle traffic originating in Canada for 180 days. Supporting shipper(s): Boise Cascade Corporation, P.O. Box 2885, Portland, Oreg. 97208. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa. 50309.

No. MC 62162 (Sub-No. 7TA), filed May 20, 1977. Applicant: DAVE CAMPBELL, d/b/a CAMPBELL TRUCK LINE, Lake City, Oowa 51449. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Detasseling machines, loading equipment, and harvesting machines on shipper-owned trailers*, between points in Iowa and Ill. for 180 days. Supporting shipper(s): Garst & Thomas Hybrid Corn Company, Coon Rapids, Iowa 50058. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa. 50309.

No. MC 79142 (Sub-No. 12TA), filed May 16, 1977. Applicant: T & T TRUCKING & TRANSPORTATION CO., INC., 43-06, 54th Road, Maspeth, N.Y. 11378. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by persons in the business of marketing petroleum products, and *materials, supplies* and *equipment* used in the conduct of such business, (except commodities in bulk), from facilities used by Mobil Oil Corporation in Brooklyn, N.Y., to points in Orange, Rockland, Westchester, Nassau and Suffolk Counties, N.Y., and (2) *Returned shipments* of the commodities specified in (1) above, from points in Orange, Rockland, Westchester, Nasau and Suffolk Counties, N.Y., to the facilities used by Mobil Oil Corporation in Brooklyn, N.Y., for 180 days. Supporting shipper(s): Mobile Oil Corporation, 150 E. 42nd Street, New York, N.Y. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 107403 (Sub-No. 1016TA), filed May 20, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard*, in bulk, in tank vehicles, from Clarksville, Tenn., to Pawtucket, R.I., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Frosty Morn Meats, Inc., P.O. Box 1048, Clarksville, Tenn. 37040. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107403 (Sub-No. 1017TA), filed May 20, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in tank vehicles, from Perth Amboy, N.J., to Marcus Hook, Pa. for 180 days. Supporting shipper(s): Sun Oil Company of Pennsylvania, 1608 Walnut Street, Philadelphia, Pa. 19103. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107460 (Sub-No. 68TA), filed May 2, 1977. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, Pa. 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from the plantsites for the Donnelley Printing Company, a subsidiary of R. R. Donnelley & Sons Company, located at or near Lancaster, Pa., to points in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Missouri, Oregon, Texas, Washington and Wisconsin, under a continuing contract or contracts with R. R. Donnelley and Sons Company, for 180 days. Supporting shipper: R.R. Donnelley and Sons Company, 2223 King Drive, Chicago, Ill. 60616. Send protests to: Robert P. Amerine, Dist, Supv., Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa., 17108.

No. MC 108393 (Sub-No. 120TA), filed May 3, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: Thomas B. Hill (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical and gas applicances, parts of electrical and gas appliance and equipment, materials and supplies* used in the manufacture, distribution, and repair of electrical and gas appliances; between Marion, Ohio, on the one hand, and, on the other, points in Boone, Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry, Will and Winnebago Counties, Ill.; Elkhart, Fulton, Kosciusko, Lake, La Porte, Marshall, Porter, Pulaski, St. Joseph, and Stark Counties, Ind.; and Berrien, Branch, Cass, Hillsdale, Lenawee, Macomb, Monroe, Oakland, St. Clair, St. Joseph, Van Buren, Washtenaw and Wyne Counties, Mich.; under a continuing contract or contracts with Whirlpool Corporation, with the restriction against the transportation of commodities in bulk, for 180 days. Supporting shipper: Whirlpool Corporation, Carl R. Anderson, Director of Corporate Traffic, Administrative Center, Benton Harbor, Mich. 49022. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Rm. 1386, Chicago, Ill. 60604.

No. MC 111045 (Sub-No. 143TA), filed May 18, 1977. Applicant: REDWING CARRIERS, INC., P.O. Box 426, 7809 Palm River Rd., Tampa, Fla. 33601. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Di-nitrobutylphenol*, in bulk, in tank vehicles, from plantsite and/or storage facilities of Alpine Laboratories, Inc., at or near Bay Minette, Ala., to Gastonia, N.C., for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alpine Laboratories, Inc. P.O. Box 147, Bay Minette, Ala. 36507. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission -B0p, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 112617 (Sub-No. 366TA), filed May 18, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Mr. Charles R. Dunford (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in tank or hopper type vehicles, from Louisville, Ky., to points in Tennessee for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lee A. Strickler, Manager, Traffic Admin-

istration, Diamond Crystal Salt Company, 916 S. Riverside Ave., St. Clair, Mich. 48079. Send protests to: District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 114211 (Sub-No. 300TA), filed May 10, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Singer & Sullivan, Suite 1600, 10 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, from Lancaster County, Nebr., to points in Washington, Oregon, Idaho, Montana, Utah, Wyoming, Colorado, North Dakota, South Dakota, Minnesota, Iowa, Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine and further including ports of entry between the United States and Canada located in Washington, Idaho, Montana, North Dakota, Minnesota, Michigan and New York, restricted to traffic originating at the facilities utilized by Kawasaki Motors Corp., U.S.A. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kawasaki Motors Corp, U.S.A. 2009 E. Edinger Avenue, P.O. Box 1147, Santa Ana, Calif. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 115092 (Sub-No. 60TA), filed May 20, 1977. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, Utah. 84078. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden moldings*, on 45 foot flat bed trailers, from Reno, Nev., to Oklahoma City, Okla., and Lowell, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Rocklin Forest Products Co. P.O. Box 59, Roseville, Calif. 95678. (Jim Ellsworth, Millwork Sales.) Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah. 84138.

No. MC 116073 (Sub-No. 355TA) filed May 11, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett, P.O. Box 919, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers), and buildings, complete or in sections, in initial movement, from the plantsites of Conchemco, Inc., Kaufman & Broad Home Systems, Inc., Mico Manufacturing Co., and Shelterex Corp., at or near Boise, Idaho, and Conchemco, Inc., at or near Mountain Home, Idaho, to all points in Washington, Oregon, Nevada, Idaho, Montana, Utah and Wyoming for 180 days. Supporting shipper(s): Kaufman & Broad Home Systems, Inc. 5500 Federal Way, Boise, Idaho. 83700. Mico Manufacturing Company, 3208 E. Amity, Boise, Idaho. 83700. Conchemco, Inc., Highway 68, Mountain Home, Idaho. 83647. Shelterex Corporation, 3210 E. Amity Road, Boise, Idaho. 83700. Conchemco, Inc. 200 N. Maple Grove Road, Boise, Idaho. 83700. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 117304 (Sub-No. 36TA), filed May 18, 1977. Applicant: DON PAFFILE, d/b/a PAFFILE TRUCK LINES, 5735 N & S Highway, Lewiston, Idaho 83501. Applicant's representative: George R. LaBissioniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Junk cars, scrap metals, paper and rags*, when going for recycling, from Spokane County, Wash., to Lewiston, Idaho for 180 days. Supporting shipper(s): Sutton's Dismantling & Salvage, 725 29th St. N. Lewiston, Idaho. 83501. Pacific Hide & Fur Depot, Inc. 15335 Main, Lewiston, Idaho. 83501. J. B. Junk & Salvage, 520–18th St. North, Lewiston, Idaho. 83501. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.

No. MC 117940 (Sub-No. 220TA), filed May 4, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores (except foodstuffs, those of unusual value, explosives, commodities in bulk, household goods, and those requiring special equipment), from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virgina, Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, Oklahoma, New Mexico, Oregon, South Dakota, Texas, Utah, Washington and Wyoming, restricted to shipments originating at the above named origins and destined to the facilities of Gamble Skogmo, Inc., and its divisions and subsidiaries at the above named destination for 180 days. Supporting shipper: Gamble-Skogmo, Inc. 5100 Gamble Drive, Minneapolis, Minn. 55416. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 123407 (Sub-No. 377TA), filed May 19, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cedar lumber and cedar wood products*, from port of entry on the International Boundary between the United States and Canada near Oroville, Wash., to points in California, Illinois, Indiana, Ohio and Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morrill & Sturgeon, Ltd. Enderby, British Columbia, Canada. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 125470 (Sub-No. 23TA), filed May 18, 1977. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, Nebr. 68701. Applicant's representative: Gailyn L. Larsen, Peterson, Bowman, Coffman & Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages and equipment, materials and supplies* used in the production and distribution thereof, between the plantsite and facilities of Midwest Canners Cooperative at or near Norfolk, Nebr., on the one hand, and, on the other, points in South Dakota, North Dakota, Minnesota, Iowa, Missouri, Kansas, and Wyoming for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert B. Pierce, Manager, Midwest Canners Cooperative, U.S. Highway 81, P.O. Box 1427, Norfolk, Nebr. 68701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 126539 (Sub-No. 30TA), filed May 17, 1977. Applicant: KATUIN BROS. INC., 102 Terminal Street, P.O. Box 1127, Dubuque, Iowa 52001. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from the storage and terminal facilities of Allied Chemical Corporation at or near Durant, Iowa, to points in Arkansas, Illinois (except points in the St. Louis, Mo. and E. St. Louis, Ill. Commercial Zone), Iowa, Indiana, Kansas, Kentucky, Minnesota, Missouri, Nebraska, South Dakota, Tennessee, and

Wisconsin for 180 days. Supporting shipper(s): Allied Chemical Corporation, 3000 Richmond Avenue, Houston, Tex. 77001. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 129537 (Sub-No. 20TA), filed May 4, 1977. Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, Ga. 30701. Applicant's representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, Fla. 33602. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpetings, floor coverings, carpets padding, and materials, supplies and equipment* used in the manufacture and installation of said commodities: (a) from the plant sites of Magee Carpet Co., Perry, Ga., and Bloomsburg, Pa., to points in the States of Florida, Texas and Arkansas; (b) between the plant sites of Magee Carpet Co., at Perry, Ga., and Bloomsburg, Pa., (2) *carpet padding and materials, supplies and equipment* used in the manufacture and installation of said commodity: (a) from the plant site of Calhoun Padding Co., Inc., Highway 41 North Calhoun, Ga., to all points in the States of Florida, Texas and Arkansas; (b) from Russellville and Louisville, Ky., Greensboro and Cornelius, North Carolina, and Norfolk, Va., to all points in the States of Georgia, Florida, Texas and Arkansas, (3) *carpet tacking strips:* From New York, N.Y., and Philadelphia, Pa., to all points in the State of Georgia, (4) *materials, supplies and items* used in the manufacture and installation of carpetings, floor coverings, carpet padding and related items: (a) From all points in the State of Texas to all points in the State of Georgia, for 180 days. Supporting shipper(s): Magee Carpet Co., P.O. Box 1269, Perry, Ga. 31069, Calhoun Chemical & Coating Co., Calhoun Padding Co., Inc., Highway 41 North, Calhoun, Ga. 30701. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Rm. 546, Atlanta, Ga. 30309.

No. MC 134323 (Sub-No. 98TA), filed May 3, 1977. Applicant: JAY LINES, INC., 720 N. Grand, P.O. Box 4146, Amarillo, Tex. 79107. Applicant's representative: Gailyn Larsen, 521 S. 14th, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, and *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), from New York, N.Y.; Charlotte, N.C., and Atlanta, Ga., and their respective commercial zones to the facilities of J. C. Penney Co., at or near Lenexa, Kans., under a continuing contract or contracts with J. C. Penney Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. C. Penney Company, Inc., 1301 Avenue of Americas, New York, N.Y. 10019. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 134922 (Sub-No. 229TA), filed May 20, 1977. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams, Route 6, Box 15, North Little Rock, Ark. 72118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and plastic materials* (except in bulk), from Mt. Vernon, Ind., to all points in California for 180 days. Supporting shipper(s): General Electric Company-Plastics Division, Lexan Lane, Mr. Vernon, Ind. 47620. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 135231 (Sub-No. 24TA) filed May 10, 1977. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 West, Thief River Falls, Minn. 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, from Lancaster County, Nebr., to points in Washington, Oregon, Idaho, Montana, Utah, Wyoming, Colorado, North Dakota, South Dakota, Minnesota, Iowa, Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire and Maine, and further including ports of entry between the United States and Canada located in Washington, Idaho, Montana, North Dakota, Minnesota, Michigan and New York, restricted to traffic originating at facilities utilized by Kawasaki Motors Corp., U.S.A. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kawasaki Motors Corp., U.S.A., 2009 East Edinger Ave., P.O. Box 11447, Santa Ana, Calif. 92711. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 138360 (Sub-No. 2TA), filed May 16, 1977. Applicant: Preston Dobbs, d.b.a. PRESTON DOBBS TRUCK SERVICE, P.O. Box 11, Hamilton, Miss. 39746. Applicant's representative: James L. Martin, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives and commodities in bulk), and empty trailers between West Point, Miss., on the one hand, and, on the other, points in Clay, Lowndes and Monroe Counties, Miss., restricted to traffic having a prior or subsequent movement by rail in trailer-on-flatcar service for 180 days. Supporting shipper(s): Blazon-Flexible Flyder, Inc., 100 Tubb Avenue, West Point, Miss. 39773. Continental Oil Company, Transportation Department, Aberdeen, Miss. 39730. Columbus and Greenville Railway Company, 1302 Main Street, Columbus, Miss. 39701. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 138395 (Sub-No. 9TA), filed May 18, 1977. Applicant: DOUGLAS H. WEST, P.O. Box 1274, Salisbury, Md. 21801. Applicant's representative: Edward N. Button, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete products, materials and supplies* used in the installation thereof. (1) From the plantsite of Moducrete Corp. located at or near Delmar, Del., to points in Kent, Queen Anne's, Talbot, Caroline, Dorchester, Wicomico, Somerset and Worcester Counties, Md., and Accomack and Northampton Counties, Va. and (2) *return shipments* of the commodities in (1) above from points in the above named destinations to points in the above named origins for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Moducrete Corp., P.O. Box 119, Delmar, Del. 19940. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue, N.W. Room 1413, District Supervisor W. C. Hersman, Washington, D.C. 20423.

No. MC 138635 (Sub-No. 41TA), filed May 18, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K. Street, N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites and warehouse facilities used by Stokely-Van Camp, Inc., located at or near Kent, Mt. Vernon, Zillah, Burlington, Grand View, Sunny Side and Walla Walla, Washington and Albany, Salem, and Eugene, Oreg., to points in Connecticut, Indiana, Massachusetts, Michigan, New Jersey, New York, Ohio and Pennsylvania for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stokely-Van Camp, Inc. 941 North Meridian Street, Indianapolis, Ind. 46206. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 138732 (Sub-No. 7TA), filed May 11, 1977. Applicant: OSTERKAMP TRUCKING, INC., 10499 North Glassell Street, Orange, Calif. 92667. Applicant's representative: Patrick E. Quinn, P.O.

Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and materials, supplies*, used in the manufacture and distribution of paper and paper products, between the plantsites of Hoerner Waldorf Division, Champion International Corporation, located in Orange County and Salinas, Calif., on the one hand, and, on the other, points in Colorado, Nevada, New Mexico, Texas and Utah for 180 days. Supporting shipper(s): Hoerner Waldorf Division, Champion International Corporation, P.O. Box 3260, St. Paul, Minn. 55165. Send protests to: Irene Carlos, Transportation Assistant Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 139495 (Sub-No. 236TA), filed May 19, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th Street, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, Suite 1030, 1819 H Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper wire*, from Hazelton, Pa., to Sidney, Nebr., and Los Angeles, Calif., for 180 days. Supporting shipper(s): Eltra Corporation, 511 Hamilton, Toledo, Ohio 43694. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101, Litwin Building, 110 North Market, Wichita, Kans. 67202.

No. MC 139666 (Sub-No. 3TA), filed May 10, 1977. Applicant: AIRCRAG CORPORATION, 8050 S.E. 13th, 6136 N.E. 87th Ave., Portland, Oreg. 97220. Applicant's representative: David C. White, 2400 S.W. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value) Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between the Portland International Airport at or near Portland, Oreg., on the one hand, and, on the other, the San Francisco International Airport at or near San Francisco, Calif., restricted to traffic having an immediately prior or subsequent movement by air for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pan American Airlines, Portland, Oreg. 97218. Emery Air Freight, Portland, Oreg. 97220. Flying Tigers Line, Portland, Oreg. 97220. Western Airlines, Portland, Oreg. 97220. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Court House, Portland, Oreg. 97204.

No. MC 139853 (Sub-No. 4TA), filed May 5, 1977. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, Wis. 54755. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products and meat by-products (except commodities in bulk and hides) between the plantsite of Landy of Wisconsin, Inc., at or near Eau Claire, Wis., on the one hand, and, on the other, points in the United States in and west of Ohio, Kentucky, Tennessee, Georgia and Florida, under a continuing contract with Landy of Wisconsin, Inc., for 180 days. Supporting shipper: Landy of Wisconsin, 2411 3rd St., Eau Claire, Wis. 54701. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 143151 (Sub-No. 1TA), filed May 4, 1977. Applicant: MICHIGAN CONTRACT CARRIER, INC., P.O. Box 9086, Wyoming, Mich. 49509. Applicant's representative: John Reynolds, 555 76th St., Grand Rapids, Mich. 49509. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flexible packing film in rolls, sheets or bags, composed of polyethlene, polypropolene cellophane and mylar, plain or laminated* from and to Michigan and all points in the following territories (each being a state) Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Nebraska, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin, under a continuing contract or contracts with Collo-Foil Products, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cello-Foil Products, Inc., Battle Creek, Mich. 49016. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 143152 (Sub-No. 2TA), filed May 17, 1977. Applicant: BILLY R. HODGE, d.b.a. HODGE TRUCKING COMPANY, Box 386, Hoxie, Ark. 72433. Applicant's representative: Thomas B. Staley, 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural micro-nutrient fertilizer and fertilizer ingredients*, from the plant site of Frit Industries in Walnut Ridge, Ark., to points and places in the states of North Dakota, South Dakota, Colorado, North Carolina, South Carolina, New York, Ohio, Minnesota, Arizona, Virginia, Louisiana, Texas, Kansas, Nebraska, Iowa, Missouri and Illinois, restricted to movements in bulk in hopper vehicles to the states of Texas, Kansas, Nebraska, Iowa, Missouri and Illinois for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Frit Industries, Inc., P.O. Box 149, Industrial Park, Walnut Ridge, Ark. 72476. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 143215 (Sub-No. 1TA), filed May 2, 1977. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and floor tile, and materials, supplies* and *equipment* used in the installation and maintenance of floor covering and floor tile, from the plant site of Armstrong Cork Co. in Lancaster, Pa.; and East Hempfield Township at or near Landisville, Pa., to points in California, Nevada, and Oregon, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: B. R. Funsten & Company, 598 Seventh Street, San Francisco, Calif. 94103. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Rm. 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 143245TA, filed May 10, 1977. Applicant: E. C. TRANSFER, CORP., P.O. Box 481006, Miami, Fla. 33178. Applicant's representative: Richard B. Austin, 5255 N.W. 87th Avenue, Suite 214, Miami, Fla. 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (excluding household goods as defined by the Commission, Classes A & B explosives, cement, motor vehicles commodities in bulk, and commodities which, by reason of size or weight require specialized handling and equipment) between all points and places in Dade County restricted to traffic having in immediate prior or subsequent movement by water, for 180 days. Supporting shipper: There are approximately 14 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 143248TA, filed May 9, 1977. Applicant: F. W. Haywood and S. N. Haywood, doing business as HAYWOOD WRECKER SERVICE, 6209 Forrest Hill Ave., Richmond, Va. 23225. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed or stolen motor ve-*

hicles and replacements thereof, restricted to the use of wreckers between points in Richmond, Petersburg, Hopewell, and Colonial Heights, Va., and the Virginia Counties of Henrico, Chesterfield, Hanover, Charles City, Caroline, Goockland, Dinsiddle, Prince George, and Amelis, on the one hand, and, on the other, points in the U.S. in and East of the States of Mississippi, Tennessee, Kentucky, Illinois and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: McLean Trucking Co., Winston-Salem, N.C., Hertz Truck Rental, Richmond, Va., Rollins Leasing Corp., Ahoshie, Va., Colonial Motor Freight Lines, Richmond, Va., Eastern Express, Inc., Richmond, Va., Rollins, Leasing Corp., Richmond, Va., Wilson Freight Co., Richmond, Va., Freight Handlers, Inc., Richmond, Va., Western Branch, Reisel Inc., Richmond, Va. Howells Auto Service, Richmond, Va. Send protests to: Paul Collins, District Supervisor, Interstate Commerce Commission, 10-502 Federal Building, 400 North Eight Street, Richmond, Va. 23240.

No. MC 143294TA, filed May 19, 1977. Applicant: ADRAIN LEE, d.b.a., Cenla Cab Co., 1401 Murray St., Alexandria, La. 71301. Applicant's representative: Adrain Lee (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, restricted to 1,500 pounds in hot shot service between points in Rapides Parish, La., on the one hand, and, on the other, points in Louisiana, Texas, Arkansas, Mississippi, Alabama, and Tennessee from 180 days. Supporting shipper(s): Dresser Industrial Valve & Instrument, P.O. Box 1430, Alexandria, La. 71301.

PASSENGER APPLICATIONS

No. MC 143272TA, filed May 16, 1977. Applicant: GEORGE B. MUNROE, d.b.a., George Munroe's Limousine Service, 327 Atlantic Avenue, P.O. Box 27, Wells, Maine 04090. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers in round trip charter operation, restricted to vehicles carrying no more than ten (10) passengers beginning and ending at points in York and Cumberland Counties, Maine, extending to points in New Hampshire, Massachusetts, Connecticut, and New York for 180 days. Supporting shipper(s): Town of Wells, Box 398, Wells, Maine 04090; (2) Town of Wells School Department, Superintendent of Schools, P.O. Box 578, Wells, Maine 04090; (3) L. Burton and Vivian K. Saunders, Fairfield Drive, Kennebunk, Maine 04043; (4) Boughton Hotel Corp., d.b.a. the Colony, Kennebunkport, Maine 04046; (5) Atlantic Motor Inn, 312 Atlantic Ave., Wells Beach, Maine 04090; (6) Tri-Towne Travel, Wells Plaza, Wells, Maine 04090. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 143288TA, filed May 20, 1977. Applicant: THE CAPPS CO., R.R. No. 1, Hedrick, Iowa 52563. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Train crews and baggage of train crews* in the same vehicle with train crews, between points in Iowa, Missouri, and Illinois for 180 days. Supporting shipper(s): Chicago, Milwaukee, St. Paul & Pacific Railroad, Perry, Iowa 50220; Chicago, Rock Island & Pacific Railroad, 300 Grandview Avenue, Muscatine, Iowa 52761. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15912 Filed 6-3-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

[M-22]

MAY 31, 1977.

TIME AND DATE: 10 a.m., June 7, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Docket 27891, EDR-301, Advance Notice of Proposed Rulemaking to amend Part 234 to establish mandatory on-time arrival standards for certificated route air carriers (petition for rulemaking instituted by Aviation Consumer Action Project).

2. Docket 23315, Delta-Northeast Merger Case (petition of Juanita Wells to compel arbitration of labor dispute) and Docket 22690 Caribbean-Atlantic Airlines, Inc., Eastern Airlines, Inc. Acquisition Case (petition of Jose Dones to compel arbitration of labor dispute).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, (202-673-5068).

[S-557-77 Filed 6-1-77;4:03 pm]

2

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m., June 7, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Title III.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, The Secretariat (254-6314).

[S-561-77 Filed 6-2-77;9:40 am]

3

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2 p.m., June 7, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Self-regulatory responsibilities of the Chicago Board of Trade.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, The Secretariat, (254-6314).

[S-568-77 Filed 6-2-77;1:04 pm]

4

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 100, page 26506, Tuesday, May 24, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., June 1, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

CHANGES IN THE MEETING:

The following items have been added to the agenda for the open portion of the meeting:

Consideration of Final Amendment Relating to "Scheduled Items"; Loans to Facilitate Sale of REO.

Consideration of Amendment of Resolution Regarding Bank Membership and Insurance of Accounts—First Valley Savings and Loan Association, Inc., Pikeville, Tennessee.

Branch Office Application—County Federal Savings and Loan Association, Rockville Centre, New York.

Preliminary Application for Conversion on Basis of Merger; Maintenance of Branch Office; Cancellation of Membership and Insurance and Transfer of Stock—Fidelity Federal Savings and Loan Association, Galesburg, Illinois (Survivor); Avon Savings and Loan Association, Avon, Illinois (Disappearing Association).

Applications for Bank Membership and Insurance of Accounts—Heritage Savings and Loan Association, Grenada, Mississippi.

No. 29, June 1, 1977.

[S-562-77 Filed 6-2-77;9:40 am]

5

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 100, page 26506, Tuesday, May 24, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., June 1, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

CHANGES IN THE MEETING:

The following items have been changed from the open to the closed portion of the meeting:

Consideration of Amendment of Holding Company Proposal (Amendment of § 584.3 (a)).

Limited Facility Application—Franklin Society Federal Savings and Loan Association, New York, New York.

No. 31, June 1, 1977.

[S-563-77 Filed 6-2-77;9:40 am]

6

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: 9:30 a.m., June 8, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Branch Office Application—First Federal Savings and Loan Association of Hendersonville, Hendersonville, North Carolina

Branch Office Application—Mineola Federal Savings and Loan Association, Mineola, Texas

Limited Facility Application—First Federal Savings and Loan Association of Lincoln, Lincoln, Nebraska

Limited Facility Application—Commercial Federal Savings and Loan Association, Omaha, Nebraska

Consideration of Amendment of Charter (Change of Name)—West Side Federal Savings and Loan Association of New York City, New York, New York

Application for Service Corporation Activity—Heritage Federal Savings and Loan Association, Daytona, Florida

Limited Facility Application—First Federal Savings and Loan Association of San Diego, San Diego, California
Application for Expansion of EFTS-RSU Project—Buckeye Federal Savings and Loan Association, Columbus, Ohio
No. 30, June 1, 1977

[S-564-77 Filed 6-2-77;9:40 am]

7

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 27, 1977, 42 FR 27383.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., June 1, 1977.

CHANGES IN THE MEETING: Deletion of the following item from the closed session:

1. Civil Penalty Compromise Guidelines.

[S-556-77 Filed 6-1-77;3:18 pm]

8

AGENCY HOLDING THE MEETING: Federal Power Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-534-7, June 2, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., June 1, 1977.

CHANGE IN THE MEETING:
The following items have been added to the agenda upon the affirmative vote of Chairman Dunham, Commissioners Smith and Watt.

G-20.—Docket Nos. RP73-65 (PGA 75-5), Columbia Gas Transmission Corporation.

G-210A.—City of Fulton, Mississippi Mantachie Natural Gas District.

G-21B.—Mississippi Gas Corporation Gas Utility District No. 2 of Pointe Coupee Parish.

KENNETH F. PLUMB,
Secretary.

[S-555-77 Filed 6-1-77;1:30 pm]

9

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Thursday, June 2, 1977.

PLACE: Room 432, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTERS

(1) Consideration of Disposition of (Nonpublic) Matter.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-558-77 Filed 6-2-77;9:40 am]

10

AGENCY HOLDING THE MEETING: Federal Trade Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 26, 1977, page: 42 FR 27131.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Wednesday, June 1, 1977.

CHANGES IN THE MEETING:
The Federal Trade Commission has changed the date of its Open Meeting of Wednesday, June 1, 1977. The meeting is now scheduled for Wednesday, June 8, 1977.

[S-559-77 Filed 6-2-77;9:40 am]

11

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 4 p.m., Tuesday, May 31, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Discussion with representatives of the National Advertising Division of the Council of Better Business Bureaus concerning regulation of advertising, particularly children's advertising.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-560-77 Filed 6-2-77;9:40 am]

12

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 2, 1977, 42 FR 28224.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Friday, June 3, 1:30 p.m. and 2 p.m.

CHANGES IN THE MEETING: Meeting titled "Discussion of Requests for Delay in Implementation of 10 CFR 73.55 on Safeguards" (Portion Open and Portion Closed) is Rescheduled for Wednesday, June 8, 1977 at 10:30 a.m.

Dated: June 1, 1977.

WALTER MAGEE,
Chief, Operations Branch, Office of the Secretary.

[S-565-77 Filed 6-2-77;11:32 am]

13

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

TIME AND DATE: Week of June 6, 1977.

PLACE: Commissioners' Conference Room, 1717 H St NW., Washington, D.C.

STATUS: Some of these meetings will be open to the public; others will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

WEDNESDAY, JUNE 8

9:30 a.m. (1) Briefing by Combustion Engineering "Standardization—Final Design Approval." (Approx. 1 hour.)
(2) Discussion of Requests for Delay of Implementation of 10 CFR 73.55 on Safeguards. (Open portion, postponed from June 3, 1977.)

THURSDAY, JUNE 9

1 p.m. (1) Briefing on Lessons Learned in Nuclear Power Plant Licensing. (Approx. 1 hour.)
(2) Briefing on Section 102—Federal/State Siting Study. (Approx. 1 hour.)
(3) Briefing on Increasing Costs of Environmental Reviews for Nuclear Plants and Alternatives. (Approx. 30 minutes.)

FRIDAY, JUNE 10

10 a.m. Joint NRC-ACRS Session. (Approx. 1 hour.)

PORTIONS CLOSED TO THE PUBLIC

WEDNESDAY, JUNE 8

11 a.m. Discussion of Requests for Delay of Implementation of 10 CFR 73.55 on Safeguards. (Closed portion, approx. 30 minutes, postponed from June 3, 1977).
1:30 p.m. (1) Discussion of Draft Opinion on W. Germany (Burgeraktion) Intervention Petition (exemptions 9, 10). (Approx. 1 hour.)
(2) Discussion of Intervention Petitions in Export Cases (exemptions 1, 9, 10). (Approx. 1 hour.)
(3) Discussion of NEP-Seabrook (exemption 10). (Approx. 1 hour.)

THURSDAY, JUNE 9

10 a.m. Discussion of Proposed Congressional Testimony (to be given on June 13). (Approx. 1 hour.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202-634-1410).

WALTER MAGEE,
Chief, Operations Branch, Office of the Secretary.

JUNE 1, 1977.

[S-566-77 Filed 6-2-77;11:32 am]

14

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

TIME AND DATE: 10 a.m. on Wednesday, June 1, 1977.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

The Commission considered certain enforcement and surveillance matters relating to stock exchange procedures and memberships.

Chairman Williams, Commissioners Loomis, Evans and Pollack voted that Commission business required consideration of these matters and that no earlier notice was possible.

JUNE 1, 1977.

[S-567-77 Filed 6-2-77;11:32 am]

federal register

MONDAY, JUNE 6, 1977
PART II

ENVIRONMENTAL PROTECTION AGENCY

■

AUTOMOBILES, 1978 AND LATER MODEL YEARS

Fuel Economy and Emissions Testing and Other Procedures

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 86 and 600]

[FRL 725-8]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES; FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy and Emissions Testing and Other Procedures for 1978 and Later Model Year Automobiles

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Environmental Protection Agency is proposing several changes to its fuel economy labeling regulations. If adopted, some of these changes might first be effective as early as the 1978 model year. The changes are being proposed to make information which appears on fuel economy labels more representative and more useful to the consumer. The package also contains changes to the definitions of two terms, "transmission class" and "engine code," for 1979 and subsequent model years.

DATES: Comments must be received on or before July 5, 1977.

ADDRESS: Administrator, Environmental Protection Agency, Attention: Office of Mobile Source Air Pollution Control (AW-455), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Gary E. Timm, Technical Advisor, Regulatory Management Staff, Office of Mobile Source Air Pollution Control, U.S. Environmental Protection Agency, Washington, D.C. 20460, (202-755-0596).

SUPPLEMENTARY INFORMATION: On November 10, 1976, the Environmental Protection Agency promulgated (41 FR 49752) a final rule on fuel economy labeling procedures for 1977 and later model year automobiles. At that time EPA recognized the need to consider appropriate improvements to the program and solicited comments from interested parties on several issues regarding vehicle classification and labeling requirements. This notice of proposed rulemaking is in response to the need for further refinements and contains a proposal for seven changes in the fuel economy labeling procedures.

Discussion of Major Issues

TRANSMISSION CLASS REDEFINITION

It is recognized that the ratio of engine speed to vehicle speed (N/V) is an important factor in determining fuel economy. Unfortunately, the Agency does not have the resources either to fully quantify the impact of N/V changes or to test each of the numerous possible combinations of transmission gear ratio, axle ratio, and tire size which are offered on new cars each model year. However, for the purpose of general fuel economy labels, differentiating model types by the number of forward gears appears to isolate and identify much of the fuel economy difference attributable to N/V effects, and solves the problem of significant differences between the mileage guide fuel economy values (which are averages) and the individual car values within the model type that are averaged together. (In 1977, 14 percent of manual transmission test vehicles had highway fuel economy values which deviated ±3 mpg or more from the mileage guide values which represented that vehicle.)

The current definition of transmission class differentiates only among manual, automatic, and semi-automatic transmissions. It is being proposed that for 1979 and later model years, transmission class be redefined so that no model type (general label) or base level will include vehicles with different numbers of forward transmission speeds (e.g., four-speed transmission cars will be classed separately from five-speed transmission cars).

Although the Agency estimates that this change would cause an increase of only 22 test cars for the industry for labeling, the impact on economy standards is unclear because no analysis was made of this change on the requirement that each significant base level be represented. (A significant base level is one that represents at least one percent of production.) The magnitude of the testing impact on significant base level testing requirements is probably small and may actually be negative for some manufacturers since expansion of the number of base levels could result in a decrease in the number of significant base levels and the number of configurations needed to reach 90 percent of projected sales in each base level. Comments are sought specifically on the testing workload impact of this proposed change.

ENGINE CODE REDEFINITION

Effective for 1979 and later model years, the Agency is proposing that engine code be redefined to reflect the presence of air conditioning, i.e., cars with air conditioning would have different codes from those without air conditioning. This change is being proposed for both Part 86 (emissions) and Part 600 (fuel economy) of the regulations (40 CFR).

Under the current definition of engine code, which appears in both the fuel economy regulations and the emissions regulations, an engine code is a unique set of engine calibrations and emission control hardware. If this unique set of engine specifications is available both with and without air conditioning, it is still considered one engine code.

In the emissions program, the presence of two distinct calibrations within the same engine code does not cause serious testing problems to the Agency because the Administrator has the authority to test both possibilities. However, in the fuel economy program, cars of the same configuration are considered to be identical and the current testing and calculation regulations do not provide for distinction to be made between them. By specifying that the presence of air conditioning requires a separate engine code and hence, a separate vehicle configuration, test cars will be more representative of a manufacturer's actual production. This change will have the following effects on the fuel economy program:

(1) More configurations will be created within some base levels, thus more vehicles may need to be tested to make up the 90 percent testing requirements for significant base levels,

(2) Different vehicles may be chosen in some base levels as a result of subdivision of existing configurations and changes in relative configuration size, and

(3) Because they are associated with separate configurations, starting in 1979, the test results of otherwise identical air conditioning and non-air conditioning-equipped test cars would be sales-weighted as opposed to simply harmonically averaged as is done presently.

Since 1978 model year certification will be almost complete for the domestic manufacturers by the time a final rulemaking results from this action, this redefinition cannot take effect until the 1979 model year.

Comments are specifically sought on the impact of the proposed change on testing workload.

Changes in the Class Structure

The Energy Policy and Conservation Act of 1975 requires fuel economy labels to contain the range of fuel economy of comparable automobiles. To meet that requirement EPA devised a system of classifying vehicles based on interior volume. The Subcompact Class, which is the smallest of the four classes, contains a much wider range of vehicle sizes than the other classes. In the Subcompact Class there is a spread of 43 percent in interior volume index, compared to a 10 percent or less spread within the other classes of sedans. The Agency believes that a further division of the Subcompact Class would be desirable to better group comparable cars in meaningful classes. A cutpoint of 85 cubic feet appears to be desirable in that it divides the Subcompact Class into two equal parts. The Agency is therefore proposing for the 1978 model year a division of the present Subcompact Class into a new Subcompact Class and a Small Class. Comments are requested on an alternative name for the latter class. The proposed Subcompact Class would include all passenger cars that are not station wagons or two seaters whose interior volume index is greater than or equal to 85 cubic feet but less than 100 cubic feet. The proposed Small Class would include passenger cars that are not station wagons or two seaters whose interior volume index is less than 85 cubic feet.

Manufacturers have commented on the cutpoints in effect for the 1977 model year. Some manufacturers want no change whatsoever, so as to have a consistent basis on which to base future product planning. Other manufacturers suggest that the possible alteration of interior volume indices should be accompanied by changes in the boundaries be-

tween classes to avoid competitive disadvantages resulting from the use of arbitrary boundaries. For this reason it has been suggested that a more flexible approach toward the classification of borderline vehicles be permitted, but no workable approach has been suggested. At this time, the Agency proposes no specific change to the cutpoints or borderlines other than the subdivision of the Subcompact Class discussed above.

DIVISION OF THE VAN/SPECIAL PURPOSE TRUCK CLASS

Last year EPA stated that it had no adequate definition of vans to distinguish them from other enclosed cargo area trucks. Since then, the Agency has included vans in the light-duty truck emission regulations (40 CFR 86.079-2).

There are currently 16 diverse entries in the combined Van/Special Purpose Truck Class. Indications from the trade press are that more entries will be forth coming. Since vans are designed and used for substantially different purposes than the other special purpose vehicles, there is good reason to distinguish between them. No substantial additional work or Guide space will be needed. The utility of the Guide will be improved by reflecting consumer buying habits more closely.

EPA is therefore proposing for the 1978 model year to separate the Van/Special Purpose Truck Class into two distinct classes. The Van Class will include all nonpassenger vehicles having an integral enclosure, which fully encloses the driver compartment and load carrying area, with a hood length less than 30 inches. The special purpose trucks will include all nonpassenger vehicles with gross vehicle weight rating (GVWR) less than 6,000 pounds not covered by the other classes.

CALCULATION OF INTERIOR VOLUME INDEX (PASSENGER)

Concern was expressed by two manufacturers in comments to EPA on the 1977 labeling regulations (41 FR 49752, November 10, 1976) over the use of the shoulder room measurements[1] as the sole determinant of interior vehicle width. One manufacturer suggested that hip room be averaged with shoulder room since (under some circumstances) the width of a vehicle seating area at the hips can be a limiting factor in the number and size of people who can be seated.

Specifically, the front seat shoulder measurement (W3) would be replaced with the arithmetic average of front seat shoulder measurement and front seat hip width (W5); and rear seat shoulder measurement (W4) would be replaced with the average of rear seat shoulder measurement and rear seat hip width (W6). This method of including hip room has the advantage of being simple to apply but ignores the fact that (based on anthropometric data) humans are ordinarily wider at the shoulders than at the hips. As such, shoulder room is generally considered to be more important than hip room in describing the limiting dimensions of a vehicle. EPA is proposing this method for the 1978 model year as one alternative to the present method of determining the width dimension used in the calculation of the interior volume index for the passenger compartment.

An alternative method, based on data that show that the average difference between hip and shoulder width for males is about 4 inches, suggests that hip room should be combined with shoulder room only when hip room is more than 4 inches less than shoulder room. (Males were selected because shoulder width, which is generally larger in males than females, determines the spacial requirements between passengers if vertical (not leaning) positioning of occupants is assumed.)

EPA is proposing that if the difference between shoulder and hip width is greater than 4 inches for either the front or back seat, the width dimension for the respective seat shall be a normalized average of the hip and shoulder dimensions for that seat, i.e., the sum of hip width plus shoulder width plus 4 divided by 2. If the shoulder width does not exceed the hip room by more than 4 inches, the shoulder room dimension is clearly the limiting dimension and the width would be set equal to the shoulder width (SAE width dimension W3 or W4 for front or back seats respectively). These formulae provide for a "continuous" rather than a "step" function and take into account the relative importance of hip room and shoulder room. A preliminary examination of the 1977 data indicates that the interior volume index of very few vehicles would be affected and that few vehicles would be reclassified as a result of this change. This is an advantage over the first alternative.

Another suggested change in calculating the interior volume index deals with the measurement of front seat leg room. Presently, only the driver's accelerator leg dimension is used.[2] The use of the average of the driver's right-leg measurement and the analogous measurement of the front seat passenger's right leg dimension has been suggested instead of the single dimension now used. Although the SAE does not currently specify how to measure the passenger's leg room, it could be measured between the currently defined seating reference point and the ankle, precisely in the same manner in which the present accelerator leg room is determined. The only difference is in the position of the foot. The Agency is thus proposing to use an average of the driver's right-leg measurement and the right-leg measurement of the passenger for the 1978 model year.

CARGO VOLUME CALCULATIONS

Based on comments from the manufacturers and on our analysis, changes need to be made to the cargo volume calculations so that the index better represents the total usable space. The two changes being proposed which are most important are the inclusion of underfloor hidden cargo volume in station wagons and a change in width measurement for the cargo area of station wagons.

A change in width measurement for the cargo area of station wagons from second seat shoulder room[3] is needed since in many cases the width of the actual cargo area is considerably less than that currently calculated due to space taken up by spare tires, and fuel tanks.

There is no single J1100 dimension which can be substituted for SAE measurement W4. Therefore, one alternative that is being proposed for the 1978 model year for station wagons is to average the width of the second seat (W4) with the width between the wheel-wells (W210), the maximum and minimum widths of the cargo area. The impact of this on the volume index of individual station wagons would be a loss of approximately 5 cubic feet. However, the inclusion of hidden cargo volume would in many cases compensate for the reduction in measured cargo volume which would otherwise cause the vehicle to change class.

A second alternative on which EPA requests comments is the use of 1 cubic foot cubes or a standard cargo set in a procedure analogous to the standard SAE luggage procedure for determining the luggage room in sedans to approximate the interior volume of the cargo area. The boxes or cargo set would be stacked in the space behind the second seat from floor to roof or, alternatively, only to the height of the second seat. This procedure may give a more meaningful measurement of usable space.

For hatchback cargo volume measurement, the Agency proposes for the 1978 model year the use of the standard SAE luggage procedure instead of the height, length and width dimensions. The reasons for this are (1) a hatchback is more like a sedan than a station wagon as far as the shape and volume of cargo space that is available; (2) it is more suitable for small parcels than large boxes, with odd-shaped things packed into areas around the wheel-wells and in other such places; and (3) certain hatchbacks are available with cargo area covers at the height of the back seat, making the cargo area even more like a sedan's trunk than like the open cargo space of a station wagon. The proposed luggage measurement procedure should more closely approximate consumer use than the procedure now in use for hatchbacks.

LABELING REQUIREMENTS

Presently, manufacturers may use either of two labels to express the fuel economy of their vehicles: (1) the general label which differentiates vehicles on the basis of model type and fulfills the descriptive requirements set by EPA, and (2) the specific label which differentiates between configurations within a model type, e.g., cars which differ in axle ratio.

[1] EPA employs measurement procedures of the Society of Automotive Engineers (SAE) designated J1100a. The shoulder measurements are W3 and W4 in J1100a.

[2] SAE J1100a measurement L34.

[3] SAE J1100a measurement W4.

and allows the manufacturer to highlight cars with the highest fuel economy values.

EPA is continuing the use of the two labels for the 1978 model year with the same restrictions that were in force for the 1977 model year.

The specific label enables manufacturers to highlight cars with good fuel economy values and to make known to the public mid-year changes improving fuel economy. However, manufacturers have utilized specific labeling to a lesser extent under the restrictions imposed in the 1977 model year which require manufacturers to specific-label all configurations within a model type of a manufacturer specific-labels any one of those configurations.

It is the Agency's opinion that the vehicle characteristics (engine code, axle ratio, and inertia weight) which distinguish specific labels may be too technical for the average consumer to understand, and the presence of two types of labels tends to be confusing. There, EPA is proposing to eliminate the use of the specific label for 1979 and subsequent model years. Specific labeling will be retained for use at the start of production since no alternative seems feasible at this time. The Agency believes that in conjunction with the proposed change of the definition of transmission class, the general label will differentiate those vehicles with a different number of forward speeds (e.g., 4 and 5 speed manual transmissions) and will enable manufacturers to highlight the fuel economy of their better cars without the use of specific labeling.

MULTI-STAGE VEHICLE MANUFACTURE

The present regulations do not adequately address which party is responsible for the fuel economy labeling of vehicles when more than one person is the manufacturer of a vehicle (i.e., in a small number of cases one manufacturer produces the chassis and drive train whereas another manufacturers the body and assembles the final vehicle). EPA is proposing that the responsibility for correctly labeling a vehicle rest with the final stage manufacturer. The final stage manufacturer is the most appropriate person to bear this responsibility because he is the only party in a position (1) to assess whether or not the various manufacturing operations will alter the fuel economy of the vehicle vis-a-vis the test results obtained by the incomplete vehicle manufacturer (See the National Highway Traffic Safety Administration NPRM on multi-stage vehicle manufacture, 42 FR 9040, February 14, 1977) and (2) to physically apply the label to a completed vehicle.

POSSIBLE CHANGES TO FUEL ECONOMY VALUES

It is recognized that the fuel economy measured on the EPA tests is at times higher than the fuel economy which customers experience. This is not surprising since a test procedure can use only a limited number of representative driving cycles while customer experience involves literally millions of combinations of weather, driving habits, maintenance habits and traffic/road conditions.

However, even though cost and a specific requirement in the Act to use the 1975 test procedures for the generation of fuel economy data for purposes of determining compliance with the fuel economy standards currently constrain EPA from changing the driving cycle, it is possible to change the basis on which fuel economy information is reported to the public on fuel economy labels and in the Gas Mileage Guide. Two suggestions have been made in this regard. One is to delete the highway number entirely and to present only the city and the combined numbers as a range in which the average driver's fuel economy would be expected to fall under normal driving conditions; the other is to employ correction factors for the highway and combined fuel economy values to make them lower. Although neither of these alternatives would assure that more consumers would get the exact numbers estimated and reported by EPA, they would tend to result in fewer consumers getting lower than the EPA numbers. Thus, although the numbers would be no more or less accurate, fewer consumers would feel deceived. At present there is inadequate data to determine the value of such correction factors or to assess whether or not such correction factors would be of sufficient accuracy to apply to the fuel economy of all cars. EPA would like comments on this issue from manufacturers and other interested parties.

The Agency requests comments on the proposals contained in this NPRM and the impact that any of these changes might have on the calculation of a manufacturer's average fuel economy value. Since the Agency is required by the Energy Policy and Conservation Act to publish testing and calculation procedures for determination of a manufacturer's average fuel economy at least 12 months prior to introduction of the affected models, and since some of these changes may affect the calculation procedure, the changes are being proposed at this time in order to allow sufficient leadtime to promulgate these rules.

Manufacturers and other interested parties may participate in this rulemaking by submitting comments (in quadruplicate if possible) to the EPA at the address given above. Specific regulatory language has not been provided for certain of the changes proposed in this notice, involving calculation of the interior volume index, elimination of specific labeling, and possible changes to fuel economy values. All relevant material received during the comment period will be considered.

It is EPA's intention to assure all interested parties an opportunity to study all information which may become the basis for EPA's final action in this proceeding. Accordingly, the Agency will not consider in this rulemaking any material which cannot be made available to the public. Parties who wish to submit information in response to this Notice of Proposed Rulemaking are cautioned that EPA will summarily return any comments which are claimed, in whole or in part, to be confidential.

A copy of all public comments will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

STATUTORY AUTHORITY

This notice of proposed rulemaking is issued under the authority of sections 503 and 506 of the Motor Vehicle Information and Cost Savings Act, as amended by section 301 of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2003 and 2006) and sections 202, 206, 207, 208, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857f-5a, 1857f-6, and 1857g(a)).

Dated: May 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended in Subpart A as follows:

In § 86.079-2, the definition for "Engine Code" is proposed to be amended to read as follows:

§ 86.079-2 Definitions.

* * * * *

"Engine Code" means a unique combination, within an engine-system combination, of displacement, carburetor (or fuel injection) calibration, choke calibration, distributor calibration, auxiliary emission control devices, air conditioning usage, and other engine and emission control system components specified by the Administrator.

* * * * *

(Secs. 202, 206, 207, 208, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857f-5a, 1857f-6, and 1857g(a)).)

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

Part 600 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended in Subparts A and D as follows:

Subpart A—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—General Provisions

1. It is proposed to amend § 600.002-78 as follows:

§ 600.002-78 Definitions.

(a) * * *

(39) "Van" means any nonpassenger automobile having an integral enclosure, fully enclosing the driver compartment and load-carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

2. It is proposed to add a new § 600.002-79 as follows:

§ 600.002-79 Definitions.

The following definitions apply beginning with the 1979 model year. § 600.002-77 applies except §§ 600.002-77 (22) and (25) which are hereby superseded.

(22) "Transmission Class" means the basic type of transmission (manual, automatic or semi-automatic) and number of forward speed, e.g., manual 4-speed, 3-speed automatic, 2-speed semi-automatic.

(25) "Engine Code" means a unique combination, within an engine-system combination (as defined in Part 86), of displacement, carburetor (or fuel injection) calibration, distributor calibration, choke calibration, auxiliary emission control devices, air conditioning usage, and other engine and emission control system components specified by the Administrator.

Subpart D—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Labeling

1. It is proposed to add a new § 600.315-78 as follows:

§ 600.315-78 Classes of comparable automobiles.

(a)(1) through (a)(1)(i). (See paragraphs (a)(1) through (a)(1)(i) of § 600.315-77.)

(ii) *Small cars.*—Interior volume index less than 85 cubic feet.

(iii) *Subcompact cars.*—Interior volume index greater than or equal to 85 cubic feet but less than 100 cubic feet.

(iv) *Compact cars.*—Interior volume index greater than or equal to 100 cubic feet but less than 110 cubic feet.

(v) *Mid-size cars.*—Interior volume index greater than or equal to 110 cubic feet but less than 120 cubic feet.

(vi) *Large cars.*—Interior volume index greater than or equal to 120 cubic feet.

(vii) *Small station wagons.*—Station wagons with interior volume index less than 130 cubic feet.

(viii) *Mid-size station wagons.*—Station wagons with interior volume index greater than or equal to 130 cubic feet but less than 160 cubic feet.

(ix) *Large station wagons.*—Station wagons with interior volume index greater than or equal to 160 cubic feet.

(2) The Administrator will classify nonpassenger automobiles into the following categories: small pickup trucks, standard pickup trucks, vans, and special purpose trucks. Pickup trucks will be separated by car line on the basis of gross vehicle weight rating (GVWR). For pickup truck car lines with more than one GVWR, the GVWR of the pickup truck car line is the arithmetic average of all distinct GVWR's less than or equal to 6,000 pounds available for that car line.

(2)(i) and (2)(ii). (See (a)(2)(i) and (a)(2)(ii) of § 600.315-77.)

(iii) *Vans.*

(iv) *Special purpose trucks.*—All nonpassenger automobiles with GVWR less than or equal to 6,000 pounds which do not meet the requirements of (2)(i), (ii), or (iii).

(a)(3) through (b)(3). (See paragraphs (a)(3) through (b)(3) of § 600.315-77.)

(c) All interior and cargo dimensions are measured in inches to the nearest 0.1 inches. All dimensions and volumes shall be determined from the base vehicles of each body style in each carline and do not include optional equipment. The dimensions H61, W3, L34, H63, W4, W201, L51, H201, L205, and the volume V1 are to be determined in accordance with the procedure outlined in Motor Vehicle Dimensions SAE J1100a (Report of Human Factors Engineering Committee, Society of Automotive Engineers, approved September 1973 and last revised September 1975) except as noted herein:

(c)(1) through (f). (See paragraphs (c)(1) through (f) of § 600.315-77.)

(g) Cargo volume index:

(1) For station wagons, the cargo volume index V2 is calculated in cubic feet, being the sum of V2a and V2b.

(i) V2a is calculated by dividing 1728 into the product of three terms:

(A) (W4+W201)/2—Shoulder room—second. (In inches obtained according to paragraph (c)),

(B) H201—Cargo height. (In inches obtained according to paragraph (c)), and

(C) L205—Cargo length at belt—second. (In inches obtained according to paragraph (c).) Round the quotient to the nearest 0.001 cubic feet.

(ii) V2b is the usable volume using one standard luggage set in the hidden cargo area below the cargo floor in accordance with the procedure described in SAE J1100a paragraph 8.2.

(2) For hatchbacks, the cargo volume index V3 is calculated in cubic feet being the sum of V3a and V3b.

(i) V3a is the total volumes of individual pieces of standard luggage set stowed in the cargo area not to exceed the height of the luggage compartment lid (where applicable) or a plane tangent to the height of the rear seat and parallel to the load floor in accordance with the procedure described in SAE J1100a paragraph 8.2.

(ii) V3b is the usable volume using one standard luggage set in the hidden cargo area below the cargo floor in accordance with the procedure described in SAE procedure J1100a paragraph 8.2.

(h) through (h)(1)(ii). (See paragraphs (h) through (h)(1)(ii) of § 600.315-77.)

(iii) Dimensions H63, W4, W201, L51 (if applicable) determined in accordance with paragraph (c).

(h)(1)(iv) through (h)(5)(ii). (See paragraphs (h)(1)(iv) through (h)(5)(ii) of § 600.315.77.)

2. It is proposed to add a new § 600.316-78 as follows:

§ 600.316-78 Multistage manufacture.

Where more than one person is the manufacturer of a vehicle, the final stage vehicle manufacturer (as defined in 49 CFR 549.3) is treated as the manufacturer for purposes of compliance with this subpart.

(Section 301 Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2003 and 2006).)

[FR Doc.77-15672 Filed 6-3-77;8:45 am]

federal register

MONDAY, JUNE 6, 1977

PART III

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

■

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Final Regulations Governing Section 505 Applications

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-01]

PART 258—REGULATIONS GOVERNING SECTION 505 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976, AS AMENDED

Final Standards for Evaluation and Other Miscellaneous Amendments

AGENCY: Federal Railroad Administration, DOT.

ACTION: Final rule.

SUMMARY: On October 8, 1976, the Federal Railroad Administrator ("Administrator") published in the FEDERAL REGISTER (41 FR 44577) final regulations governing applications under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 ("Act"), concerning the purchase of redeemable preference shares. On October 19, 1976, the President signed into law the Rail Transportation Improvement Act ("RTIA"), Pub. L. 94-555, which, among other things, amends sections 505 and 506 of the Act. This document corrects certain technical errors that were contained in the regulations, clarifies or revises certain information requirements and other provisions, and amends this part to reflect changes to the Act contained in the RTIA, including the requirement that any regulations published under section 505 of the Act "* * * shall include specific and detailed standards in accordance with which the [Administrator] shall conduct the evaluations and make the determinations required in subsection (b)(2) of [section 505]."

DATES: Effective date: June 6, 1977. Termination date: Unless extended, September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

THE PRINCIPAL AUTHORS OF THIS PART

Principal attorney: Jeffrey K. Mercer, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Room 5101, Washington, D.C. 20590 (202-426-7737); or

Principal program person: William E. Loftus, Director, Office of National Freight Programs, Office of Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Room 5415, Washington, D.C. 20590 (202-426-9657).

SUPPLEMENTARY INFORMATION: On January 25, 1977, the Federal Railroad Administration ("FRA") published in the FEDERAL REGISTER (42 FR 4660) proposed regulations containing standards for evaluating the public interest in providing financial assistance through the purchase of redeemable preference shares and other miscellaneous amendments to 49 CFR Part 258.

Interested persons were invited to submit on or before February 24, 1977, written comments on the proposed regulations. The period for written comments was subsequently extended to March 4, 1977, at the request of the Association of American Railroads ("AAR"). On April 5, 1977, a public meeting was held in order to permit persons that filed written comments to amplify or explain their comments and to hear anyone else who wanted to address the proposed regulations.

Numerous persons and organizations either participated at the public meeting or filed comments in response to the proposed regulations. Each comment was given due consideration by the FRA. Major comments, and changes, if any, made in the regulations as a result of each such comment, are discussed below.

IMMEDIATE FUNDING

The Administrator recognizes that the current state of deterioration of main line track requires early attention. Additionally, the work will be a stimulus to rail employment, particularly among minorities and youths. Because many of the applications currently pending before the FRA are for complex, multi-year projects, it would be impossible for FRA to fully evaluate them in time for the 1977 work season. However, in light of the Economic Stimulus Program (Pub. L. 95-29), signed by the President on May 13, 1977, it is the Administrator's intention to fund in the 1977 work season track rehabilitation projects that:

(a) Can be initiated and completed in 1977;

(b) Are not dependent upon materials or machinery which are not readily available; and

(c) Are in addition to work scheduled to be done under the applicant's regular 1977 work program.

Applicants for such funding must follow the regular application procedure. To the extent that the 1977 project is part of a pending application, the information contained therein will be considered as applicable to the 1977 project request. Because of the urgency of rehabilitating track this summer and the mid-year date of these regulations, the timeliness of the availability of alternative funds will be considered in conjunction with the other tests set forth in section 258.23 of the regulations.

The statement of management's program for financial viability required in section 258.7(a)(10) of the regulations will not be required in connection with any application for immediate funding that is approved prior to August 1, 1977, and covers a project that meets the above three criteria. This change is in partial response to a request from a commenter that additional time would be required to supply that information.

DISCUSSION OF MAJOR COMMENTS

I. Financial tests of the reasonableness of the cost of funds available from alternative sources.

AT WHOM IS THE PROGRAM AIMED?

The first factor which the Administrator is to consider in determining the public interest is the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management. Our proposed standards, through a series of financial tests, interpret this provision to direct preference share funding primarily to marginal and bankrupt railroads. The exception to this general policy is the case of a profitable railroad faced with a large project (in relation to its capital structure) which is clearly in the public interest, but which has a low rate of return and would, therefore, cause a severe adverse impact on the carrier's overall rate of return on total capital. Few commenters have questioned this approach. However, one commenter stated that preference share financing should be available equally to all railroads whether they are financially strong or weak. We have nonetheless maintained the approach taken in the proposed regulations.

This approach is consistent with the requirement in the Act that the Administrator, in determining whether the requested financial assistance is in the public interest, consider "* * * the availability of funds from other sources at a cost which is reasonable. * * *" The approach is also reasonable in light of the limited appropriations available and the relatively short duration of the program. The standards will assure that the money is directed to the marginal and bankrupt railroads, for whom the problem of deferred maintenance is most severe. They will also assure that Federal funds are not advanced to railroads that do not actually need them.

Section 258.25(b)(ii) of the regulations requires that the applicant must be reasonably likely to be able to redeem any preference shares issued to finance a proposed project in accordance with their terms. Because the financial assistance is being directed primarily to marginal railroads, however, there is a risk that some recipients may not be able to make the mandatory redemption payments and dividend payments as required by the Act. Accordingly, appropriate terms and conditions will be negotiated with each applicant in order to protect the taxpayer to the extent possible in the event of such nonpayment.

USE OF INTERNAL RATE OF RETURN

With respect to deferred maintenance projects, the proposed standards restricted preference share financing to projects whose internal rate of return equals or exceeds the applicant's rate of return on total capital for the three fiscal years preceding the filing of the application. The proposed regulations also provided that the internal rate of return of the project must be less than or equal to the cost of alternative financing. The AAR commented that these requirements together created an unreasonably narrow "keyhole" through which the projects must fit. The AAR stated that the use of the applicant's rate of return on total capital as a floor wrongfully excludes low return projects that may be necessary despite their low returns.

We agree with the commenter. The use of the applicant's rate of return on

capital as a floor may eliminate certain deferred maintenance projects which result in substantial public benefits despite the fact that the internal rate of return on the project is lower than the three-year average rate of return on total capital of the company. For this reason, the provision has been deleted in the final regulations.

Likewise, the explicit comparison between the internal rate of return of the project and the cost of the financing has been deleted from the final regulations. We feel that the revised tests, discussed below, together with consideration of the applicant's present and prospective financial condition and operating results, will suffice to make our determination of whether funds are available from alternative sources at a reasonable cost.

The internal rate of return of the project will, however, still play an important part in the evaluation process. In particular, the computation of internal rates of return, in accordance with the procedures that were published on January 25, 1977 (42 FR 4652), will provide the Administrator with the information necessary to determine that any project for which funds are obligated will stand on its own, either as a single-year or multi-year project. If the project is part of a larger effort, it must represent a usable segment.

While some commenters argued that the internal rate of return fails to take into consideration the risk factor involved in such computations, we feel that the published procedures adequately address such risk factors. The procedures expressly provide for a discussion of the principal areas of uncertainty present in the computations. The regulations state—

> This discussion must indicate why particular values might be different from those used in the computation, and the range into which each uncertain value could be expected to fall. It must also indicate the applicant's subjective level of confidence that the computed IRR is a reasonably close prediction of the project's and the base case's financial performance.

In reviewing the internal rate of return computations of an applicant, FRA will take cognizance of this discussion of the areas of uncertainty and will make allowance for the risk factor entailed in the computations.

Use of Applicant's Rate of Return on Total Capital

The AAR commented that the use of the railroad's rate of return on total capital ("Ratio") assumes, fallaciously, that the railroad's Ratio is "acceptable" or "satisfactory" to begin with.

At the outset, it should be emphasized that the use of the railroad's Ratio is mandated by the Act. Our application of the concept takes into consideration the fact that a company's Ratio is an average rate of return for all of its investments. At any one time the company may invest in some projects which have internal rates of return higher than the company's Ratio and at other times may invest in projects which have internal rates of return lower than the company's Ratio. The standard, however, protects against an imprudently large deterioration in the company's overall rate of return on total capital. It is not within the scope of the section 505 program to establish return on capital goals or guidelines for the industry.

Consideration of Loan Guarantees as an Alternative Source of Funds

One commenter stated that the term "Cost", as used in the proposed regulations, is ambiguous and should be defined to exclude government-guaranteed debt because the availability of guaranteed debt will depend largely on a railroad's willingness to accept conditions.

It has been emphasized since publication of the first proposed section 505 regulations in June of 1976 that government-guaranteed debt was to be considered a viable source of alternative funding under section 505 of the Act. The fact that the availability of such funds may depend upon a carrier's willingness to accept conditions does not differentiate government-guaranteed debt from other debt that may be obtained in the private market place. The conditions imposed by the government are largely of a financial type that would be imposed by any responsible lender.

Because the availability of a Federal guarantee of obligations under section 511 of the Act is uniquely within the jurisdiction of the FRA, the Administrator will analyze each application under section 505 of the Act to determine whether all or any part of the application would qualify for loan guarantees under section 511 and whether the cost of such guaranteed obligations would be reasonable under principles of prudent railroad financial management. We believe that such a course of action is not only dictated by responsible Federal fiscal policy but will also permit FRA to achieve the maximum benefits with the entire Title V program, which includes both preference shares and loan guarantees. It should be clarified, however, that applicants are not required to submit section 511 applications as a prerequisite to applying for preference share financing.

Revisions of Financial Tests

The written comments and subsequent public hearing revealed that many commenters did not fully understand the process by which the availability and the reasonableness of the cost of alternative funds would be judged. For this reason, we have made extensive revisions to section 258.23 in the final regulations. We have also adopted a number of suggestions made by commenters.

Under the revised regulations a number of presumptive tests are established to determine whether funds are available from alternative sources at a cost which is reasonable under principles of prudent financial railroad management. An applicant may rebut the presumptions by showing either that the conditions which give rise to the presumptions do not exist or that certain circumstances and facts, specified in the regulations as necessary to rebut the presumptions, do exist.

Borrowed funds which are not guaranteed by the Federal government are deemed to be available at a reasonable cost to the applicant if the applicant has a Moody's bond rating for any outstanding long-term debt (other than equipment obligations) of Baa or higher. In the case of an applicant that does not have indebtedness that is rated by Moody's, borrowed funds will be deemed to be available at a reasonable cost if the ratio of the applicant's consolidated net operating income before taxes to the sum of its consolidated fixed and contingent charges for the three calendar years preceding the date of submission of the application equals or exceeds the average of such ratios for all Class I railroads with debt securities rated Baa as at the last day of the most recent calendar year for which all such railroads shall have reported their results to the Commission. The use of Moody's ratings and the analysis of an applicant's coverage of fixed and contingent charges are prime financial evaluative tools used in the private sector, and were suggested by a number of commenters as a means of determining whether borrowed funds are available at a reasonable cost.

With respect to the issuance of new common stock equity, the standards have been changed considerably in response to public comments. The use of the concept of dilution in evaluating the reasonableness of the cost of issuing new common stock has been retained, but is now only one of several alternative factors that will be considered. Several commenters suggested that the dilution test for the reasonableness of the cost of issuing new equity capital is unrealistic because it is based on book equity figures, which the commenters state are irrelevant to current economic decisions and result in unequal treatment of competing railroads. The genesis of this comment is the difference in capital structures among certain midwestern railroads.

What the argument fails to recognize is that shareholders purchasing shares in a company do so on the basis of the currently stated book value, if book value is a consideration, and not in reliance on assertions of historic book value. Moreover, the standards are intended to determine whether alternative sources of funds are available at a reasonable cost. They are not intended to accord precisely equal treatment to competing carriers.

We recognize, however, that dilution of book value is not the only factor that might cause the cost of a new issue of common stock to be unreasonable under principles of prudent railroad financial management. Therefore, the cost of such a stock issue will also be deemed to be unreasonable if the applicant shows that the issuance and sale would result in a substantial deterioration in the market price per common share or would result in a substantial reduction in the applicant's rate of return on total capital.

If the applicant fails to rebut any of the presumptions set forth in the regulations, the Administrator will consider such other facts and arguments as the applicant may put forward to show that funds are not available to it at a cost which is reasonable under principles of prudent railroad financial management.

II. Public benefits and costs: Priority ranking

USE OF TRAFFIC DENSITY TO DETERMINE PRIORITIES

A number of commenters questioned the emphasis on traffic density as the primary determinant of project ranking within § 258.27(b)(1) of the proposed regulations. Some commenters offered additional categories for consideration, such as feeder lines in areas with a high potential for future industrial growth, light density lines, and defense essential lines.

As we stated in the preamble to the proposed regulations, in determining the extent to which a project will provide public benefits, the Administrator is required to give the highest priority to "* * * projects which will enhance the ability of the applicant carrier or other carriers to provide essential freight services". The most practical measure of whether a project will provide such benefits is the level of traffic carried on the line to be rehabilitated or improved. In general, the proposed standcial purpose trucks. Pickup trucks will be deemed to enhance the ability of the applicant to provide essential freight services if it provides for the acquisition, construction, rehabilitation, or significant improvement of lines (including associated facilities such as yards, team tracks, etc.) that have an annual traffic density of at least five million gross ton-miles per mile. This will necessarily eliminate most Class II railroads from the higher categories for preference share funding. Class II railroads are, of course, eligible on an equal basis with all other railroads for rehabilitation financing through loan guarantees under section 511 of the Act.

The use of gross traffic density to determine the broad parameters within which projects will be funded is consistent with the final report under section 503 of the Act. However, the proposed standards do not correlate directly with the section 503 line designations, which included additional factors necessary to connect line segments.

The preference share program is a temporary program which is intended to meet severe maintenance and rehabilitation needs while a comprehensive analysis of the railroad industry's overall maintenance and financial requirements is undertaken and while a determination is made of the type and amount of Federal assistance that should be provided the industry. It is expected that these studies will lead to the development of a long-term Federal policy on these matters. Thus, the preamble to the proposed regulations correctly identified the Federal interest as one which is limited to "* * * facilities which provide for substantial movements of freight traffic and are likely to survive any future restructuring of the existing system."

Among projects of similar traffic density and location, priority is given to projects that involve consolidation or coordination efforts. Two railroads commented that the emphasis on consolidations and coordinations is neither in the public interest nor warranted by the statute. However, the AAR endorsed the use of consolidations and coordinations within our priority scheme and proposed an even greater emphasis on such projects.

The use of consolidations and coordinations has been retained in the final regulations in order to provide a stimulus toward rationalization of existing rail plant, particularly in a corridor of consolidation potential ("CCP") as identified in the final report under section 503 of the Act, where the need for such rationalization efforts is most severe. Among lines in the same density category, projects that entail a consolidation or coordination will normally have greater public benefits because excess rail capacity, with its maintenance cost, is reduced. However, it does not appear to be in the public interest to fund rehabilitation of a lower density mainline, merely because it entails a consolidation, before funding rehabilitation of a high density mainline which does not entail a consolidation. Therefore, we have not adopted the AAR's proposal of giving emphasis first to consolidations and second to projects based solely on density.

The AAR made a constructive recommendation with respect to consolidations of facilities by a single carrier. The proposed standards already gave second priority to rehabilitation and improvement projects that entail a consolidation by a single carrier on a line with a traffic density of at least 20 million gross ton-miles per mile, not located in a CCP. In the final standards, we have added an additional category for similar projects on mainlines with traffic density lower than 20 million gross ton-miles per mile. However, within these two categories, the consolidation of double track into single track will not be deemed to be a consolidation. The consolidation must involve physically separated lines that, in fact, constitute separate physical and operating systems. Within CCP's, however, where the potential for consolidations between railroads is great, no priority is given to consolidations by a single railroad.

TECHNICAL COMMENTS

The AAR noted two "apparent drafting errors": (1) Use of the term "facilities" instead of "mainlines" in § 258.27(b)(1)(iv) of the proposed regulations; and (2) omission of the word "not" in the phrase "density of (not) less than" in § 258.27(b)(1)(vii) of the proposed regulations.

The provisions are correct as published. The term "facilities", as defined in the Act and the regulations, includes "(t)rack, roadbed, and related structures * * *" without any limitations related to traffic density. The term "mainline" means a line that has an annual traffic density of at least five million gross ton-miles per mile. The term "facilities" is used in paragraph (iv) of the section in order to permit funding of projects which involve consolidation of, or coordination of traffic on, lines that have a traffic density of less than five million gross ton-miles per mile. This is desirable because of the low density level anticipated in paragraph (iv). Similar terminology is used in the newly added paragraph (v) of the final regulations.

With respect to the second apparent error, paragraph (vii) of the proposed regulations was intended to be a restatement of former paragraph (v) (now paragraph (vi)); that is, mainlines with less than 20 million gross ton-miles of traffic per mile—except that less than two million net tons of revenue freight originate or terminate on the line annually. Such lines are included within essential freight services despite their very low level of originating or terminating traffic because of their strategic location outside of a CCP and the resulting prospect that they will continue to be operated as part of the national rail system in the foreseeable future. Such a line, however, has a low priority for funding.

SAFETY

The Railway Labor Executives' Association expressed concern that the priorities as set forth in § 258.27 of the proposed regulations fail to give the statutorily prescribed emphasis to safety projects.

We share the commenter's concern with rail safety, but feel that we have given appropriate emphasis to safety throughout the regulations. Virtually all projects within the essential freight services category have important consequences for safe rail operations. In addition, section 258.29(b) of the regulations gives priority within each of the categories set forth in § 258.27 of the regulations to projects "* * * that provide safety improvements and signals, including underpasses or overpasses at railroad crossings at which injury or loss of life has frequently occurred or is likely to occur". In order to apply this provision and recognizing that virtually all track rehabilitation and improvement projects have important consequences for safe operations, each applicant is required under § 258.7(a)(6) to state "* * * how the project will contribute to or enhance the safe operation of the railroad * * *."

In addition to this overall priority for projects that provide for safer operations, the proposed standards included, and the final regulations retain, a separate category for special projects that "* * * will eliminate identifiable and severe public safety hazards". This special category was included to cover those safety-oriented projects that involve lower density lines or do not involve track work and, so, are not covered by the overall priority afforded by § 258.29(b) of the regulations.

III. Yield on redeemable preference shares.

RATE OF RETURN ON TOTAL CAPITAL CEILING

The Act provides that the yield on preference shares is to be established within certain limits which are determined by the type of project to be financed. If the project is to reduce deferred maintenance, the redemption and dividend schedules, together, must result in a payback of at least 150% of the funding, and the yield, expressed as an annual percentage rate from the date of issuance of the shares, cannot exceed the railroad's rate of return on total capital for the three years preceding the date of the application. Because there is no practical way to establish specific and detailed standards for choosing, in any particular case, any rate within the statutory range, we established as the standard the high end of the range. Thus, in the case of deferred maintenance, our proposed standard provided that the yields would be set at the applicant's rate of return on total capital for the three years preceding the date of the application, and in the case of other projects, yields would be set at the cost of money to the government.

Several commenters objected to this policy. Certain commenters stated that the Congress intended that deferred maintenance projects be financed at yields lower than the rate of return on total capital, and that, by selecting the top end of the range as our standard, we have thwarted the congressional intent. However, commenters provided little guidance as to how we are to choose the correct yield within that allowable range for any particular application. One commenter stated that we should apply the minimum allowed by statute.

The final standards retain the statutory maximum as the yield to be applied to shares whose proceeds are to be used solely to reduce deferred maintenance on facilities. However, we have inserted the proviso that, within the limitations imposed by section 506 of the Act, a lower yield may be applied where the public interest in financing the project warrants such a lower yield.

The final regulations are consistent with the congressional intent underlying the provisions of the RTIA. Congress rejected a single yield and industry representatives agreed to the compromise range of yields. Congress also rejected any change that would prevent a "cost of money" yield for the ceiling on nondeferred maintenance projects, recognizing, we believe, other attractive aspects of preference share financing—delayed payments of dividends and installments of redemptions, and no requirement of collateral.

HIGH ACTUAL DIVIDEND PAYMENT RATE

One commenter stated that the FRA policy on yield (discussed above) results in an unreasonably high rate of dividend payments.

The eleven-year moratorium on dividend payments imposed by the Act necessarily results in a high actual rate of payment. During the first eleven years, however, the applicant will have the cash flow benefits of delayed payment, which should enable it to generate earning power sufficient to make the larger dividend payments necessary in the later years.

IV. Information requirements.

FORECASTED FINANCIAL STATEMENTS; PUBLIC DISCLOSURE

Several commenters objected to the requirement that applicants submit forecasted financial statements. The AAR commented, for example, that Exhibit E, consisting of forecasted income statements and balance sheets, should be deleted, because such forecasts are "manifestly unreliable". In addition, the AAR stated that public forecasts raise disclosure problems under the rules of the Securities and Exchange Commission.

We believe that it is absolutely necessary to ask applicants to provide their view of the future. Forecasted financial statements provide the best available representation of that view. They also provide FRA analysts with the groundwork necessary to determine whether the requested Federal investment can be repaid and whether it is sufficient for that company to maintain financial viability. The statement under § 258.7(a)(10) of the regulations of management's program for maintaining financial viability will do much to amplify the financial forecasts in this regard.

With respect to disclosure problems, the mechanism exists for maintaining confidentiality of information submitted to FRA, if the information constitutes a trade secret or the disclosure of that information would subject an applicant to substantial competitive harm. The procedures for requesting that information not be disclosed is set forth in § 258.13 of the regulations. Under the circumstances, any substantial problem of complying with the rules of the Securities and Exchange Commission can be obviated.

In addition, the Administrator intends not to disclose any information submitted under § 258.7(a)(10) and paragraphs (d) through (g) of § 258.9 of the regulations. This determination is based on a finding by the Administrator that release of this information from any section 505 application would cause substantial harm to the competitive position of the applicant. A notice of this and any further categorical determinations not to disclose information will be published in the FEDERAL REGISTER, along with a request for public comments on the action. With a continued experience with section 505 applications, the Administrator may modify or rescind earlier determinations concerning categorical confidential treatment. These determinations will be communicated to applicants that have already filed applications, and will be published as a notice in the FEDERAL REGISTER.

CERTIFIED FINANCIAL STATEMENTS

The AAR also commented that requiring certified financial statements in the application or as a condition to closing imposes a financial burden on companies that are part of a consolidated financial system, since, the commenter states, the statements of those companies are usually not certified. The AAR suggested that in such circumstances, independently certified financial statements not be required prior to closing if the applicant submits (1) an uncertified financial statement and (2) a consolidated financial statement of the parent company, certified by an independent public accountant.

The requirements in Exhibits E and F of the proposed regulations that certified financial statements be submitted, if available, has been retained in the regulations. The certification of applicant's financial statements will permit FRA to ascribe a greater degree of reliability to them and, if the certification is a "qualified" one, will identify specific deficiencies in the applicant's accounting practices.

A recent order of the Securities and Exchange Commission requires railroads that have securities which are registered under the Securities Exchange Act of 1934 ("Exchange Act") to prepare and file certified financial statements on a periodic basis. Therefore, railroads that are not part of a consolidated financial system or have registered securities under the Exchange Act will be required to provide certified financial statements at the time of their application. With respect to railroads that are part of a consolidated financial system, we will follow the AAR's recommendations and will not require the submission of certified financial statements with the application or at closing. FRA reserves the right, however, to require such statements of any railroad where we feel they are warranted.

V. Miscellaneous.

CONTRACTING

The Railway Labor Executives' Association commented that work funded under Title V of the Act should be performed by railroad employees. FRA does not have statutory authority to control the contracting practices of applicants to that extent; however, current railroad employees are protected against any adverse impacts by section 516 of the Act. In addition, FRA has revised § 258.7(a)(9) of the regulations to require all applicants for preference share financing to give notice of the project to their employees, whether or not the applicant anticipates any adverse impact on its employees by reason of the project.

MISCELLANEOUS CHANGES TO THE REGULATIONS

In addition to the changes discussed above, the following changes have been made:

1. The definition of "project" in § 258.3 (i) has been revised in order to parallel the definition of "project" contained in the procedures for computing the internal rate of return on projects, Subpart C of 49 CFR Part 260.

2. The information requirements contained in § 258.7(a)(4), concerning project description, have been simplified.

3. Paragraphs (5) and (7) of § 258.7(a) have been revised to more correctly reflect the information requirements necessary to apply the standards set forth in § 258.23 and § 258.27.

4. In order to expedite the financial analysis of applications, § 258.9(e) has been revised to require the major categories of railway operating expenses to be forecasted, as well as the total railway operating expenses required previously.

5. A new paragraph (1) has been added to the exhibit required in § 258.9(i) in order to correctly reflect the requirement of section 505(b)(1)(B) of the Act.

6. The requirement in former section § 258.9(j) of a draft notice of filing of the application has been deleted. Notice of each application will still be published in the FEDERAL REGISTER, but will be prepared by FRA staff from information contained in the application.

7. The definition of "consolidation" in § 258.19(a) has been clarified to exclude consolidations by a single railroad of double track into single track where the lines do not constitute separate physical and operating systems.

8. In § 258.27(b)(1), the word "entail" has been substituted for the phrase "and as a result of" wherever it appears in order to eliminate the implication of the former language that the consolidation of facilities or coordination of traffic has to cause a change in the traffic density level.

REGULATORY REVIEW

The impact of section 505 assistance including the inflationary impact of the regulations, was fully considered prior to publication of the initial regulations on October 8, 1976. The standards issued herein will not affect overall costs or benefits of the program as it was set forth in the initial regulations. Accordingly, an evaluation of the expected impact of the regulations pursuant to the Department of Transportation Policies to Improve Analysis and Review of Regulations (41 FR 16200) is not required.

In consideration of the foregoing, 49 CFR Part 258 is revised as set forth below.

Dated: June 1, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

PART 258—REGULATIONS GOVERNING SECTION 505 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976, AS AMENDED

Subpart A—Procedures for Applications for Preference Share Financing

AUTHORITY: Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, as amended; the Department of Transportation Act, 49 U.S.C. 1651 et seq., Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(u).

Subpart A—Procedures for Applications for Preference Share Financing

§ 258.1 Applicability.

This part prescribes the requirements and procedures governing applications by railroads for financial assistance pursuant to section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended. These requirements and procedures also govern applications for assistance for the purpose set forth in section 517 of that Act, improvement of intercity rail passenger service on lines owned by the applicant and located outside the Northeast Corridor, being the properties acquired by the National Railroad Passenger Corporation pursuant to Title VII of the Act and described in section 701(a)(4) of that Act.

§ 258.3 Definitions.

As used in this part—

(a) "Act" means the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, February 5, 1976), as amended.

(b) "Administrator" means the Federal Railroad Administrator, or his delegate.

(c) "Applicant" means any railroad that submits an application for financial assistance pursuant to this part.

(d) "Commission" means the Interstate Commerce Commission.

(e) "Equipment" means any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features, or any other type of car designated by the Administrator upon a written finding that such designation is consistent with the purposes of the Act. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar.

(f) "Facilities" means—

(1) track, roadbed, and related structures, including rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, office buildings used for operating purposes only, repair shops, enginehouses, and public improvements used or usable for rail service operations;

(2) communication and power transmission systems, including electronic, microwave, wireless, communication, and automatic data processing systems, electrical transmission systems, powerplants, power transmission systems, powerplant machinery and equipment, structures, and facilities for the transmission of electricity for use by railroads;

(3) signals, including signals and interlockers;

(4) terminal or yard facilities, including trailer-on-flat-car and container-on-flat-car terminals, express or railroad terminal and switching facilities, and services to express companies and railroads and their shippers, including ferries, tugs, carfloats, and related shoreside facilities designed for the transportation of equipment by water; or

(5) shop or repair facilities or any other property used or capable of being used in rail freight transportation services or in connection with such services or for originating, terminating, improving, and expediting the movement of equipment.

(g) "FRA" means Federal Railroad Administration.

(h) "Including" means including but not limited to.

(i) "Project" means the purpose for which the applicant seeks financial assistance under this part, including acquisition or maintenance of facilities or equipment, rehabilitation or improvement of facilities or equipment, and new construction of facilities, and shall include as separate projects each part or subpart into which the total project for which the applicant seeks funding may reasonably be divided and for which the cost is considered independent of the remainder of the total project cost. The cost of a part or subpart is independent of the remainder of the total project cost if the cash flow impact upon the applicant resulting from the part or subpart would be approximately the same regardless of whether or not the remainder of the total project were undertaken.

(j) "Railroad" means a common carrier by railroad or express as defined in section 1(3) of Part I of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes the National Railroad Passenger Corporation and the Alaska Railroad.

(k) "Railroad in reorganization" means a railroad being reorganized under section 77 of the Bankruptcy Act (11 U.S.C. 205)

(l) "Redeemable preference shares" means shares acquired by the Administrator under section 505(d) of the Act that conform to the requirements set forth in section 506 of the Act.

(m) "Trustee" means the trustee, or trustees if more than one trustee has been appointed, of a railroad in reorganization.

(n) "Trustee certificates" means certificates issued under section 77(c)(3) of the Bankruptcy Act (11 U.S.C. 205(c)(3)).

§ 258.5 Eligibility.

Any railroad may apply to the Administrator under section 505 for such financial assistance as the Administrator may approve.

§ 258.7 Form and content of application.

(a) Each application shall include, in the order indicated and identified by applicable section numbers and letters cor-

responding to those used in this part, the following information:

(1) Full and correct name and principal business address of the applicant;

(2) Date of applicant's incorporation, and name of the government, State, or territory under the laws of which it was incorporated or organized. If applicant is a trustee, then, in addition, the name and address of the reorganization court under the direction of which the applicant is acting, and the docket number of the proceeding;

(3) Name, title, and address of the person to whom correspondence regarding the application should be addressed;

(4) Detailed description of the amount and timing of financial assistance that is being sought and its purpose or purposes, including—

(i) A description of the physical condition of all facilities included in or directly affected by the proposed project;

(ii) Identification of each part or subpart into which the project may reasonably be divided, including the assignment of priorities for funding of each part or subpart;

(iii) Amount of financing requested in the application for the proposed project, and for each part or sub-part;

(iv) Proposed dates for commencement and completion of the project, and for each part and subpart, as well as the date or dates on which applicant desires to have the funds made available, and a schedule according to which applicant desires to redeem preference shares purchased pursuant to this part and make dividend payments thereon, which schedule results in a yield as prescribed in § 258.25(b)(ii) of this part;

(v) A detailed statement setting forth the estimated internal rate of return on the project, computed in accordance with the procedures and format set forth in Subpart C of Part 260 of this chapter which is hereby incorporated herein by reference. Relevant material presented elsewhere in the application need not be repeated in this statement, but must be explicitly referenced.

(vi) Statement of whether the project involves another railroad or other participant, through joint execution, coordination, or otherwise; if so, description of the relative participation of applicant and such other railroad or participant, including statement of financing arrangements of each participant, portion of the work to be performed by each, and contemplated level of usage of the equipment or facility by each participant when the work is completed, along with a statement by a responsible officer or official of the other railroad or participant that the information provided reflects their agreement on these matters;

(5) Full and complete statement, together with supporting evidence, of the category within § 258.27 into which each project, and part and subpart of a project, falls.

(6) Statement as to how the project will contribute to or enhance the safe operation of the railroad, considering such factors as the occupational safety and health of employees and the improvement of physical or other conditions that have caused or may cause serious injury or loss of life to the public and to users of the railroad's services;

(7) Full and complete statement, together with supporting evidence, of whether, under the standards set forth in § 258.23(b), funds are available from alternative sources at a cost which is reasonable under principles of prudent railroad financial management. The statement must indicate, together with supporting evidence, for each source of funds listed in § 258.23(b), either that the condition which gives rise to the presumption does not exist or that other circumstances and facts described in that section as necessary to rebut the presumption do exist.

(8) Detailed assessment of impact of the project on the environment, in the general format and including the information set forth in the appendix to this part.

(9) Statement that notice of the application, including a brief description of the project, has been posted on bulletin boards convenient to interested employees of the railroad and by sending registered mail notice to the duly authorized representatives of such employees. This requirement is not in lieu of any other requirements imposed by reason of section 516 of the Act.

(10) A narrative statement detailing management's program to maintain applicant's ability to provide essential rail freight services as a viable railroad. The statement shall include as a minimum a discussion of each of the elements listed as (i) through (vii) in this paragraph including how each relates to the four year financial forecasts provided in Exhibits E and G of the application, and a full explanation of the methodology and reasoning used in making the analyses together with supporting documentation as appropriate.

(i) Applicant's current and prospective traffic base, including by commodity and geographic region major markets served, major interchange points, and market development plans.

(ii) Applicant's current operating patterns, and plans if any, to enhance its ability to serve the prospective traffic base identified in (i) above.

(iii) System-wide plans to maintain (A) equipment and (B) right-of-way by major segments at levels adequate to serve markets and maintain operating patterns discussed in (i) and (ii) above.

(iv) Specific plans for rationalization of marginal or uneconomic services including consolidation or coordination with other carriers in jointly served markets, withdrawal from markets served by two railroads other than the applicant and in which the applicant's services produce marginal or no earnings, and the abandonment of uneconomic facilities.

(v) Facilities and service not discussed in (iv) above that are physically or operationally susceptible to consolidation or coordination with other carriers or internally, and summary of plans or discussions with other carriers regarding same.

(vi) Relationship of current requests for Federal financial assistance to the program discussed in this section, including a specific explanation of the impact of the assistance as stated in the financial forecasts of applicant in Exhibits E and G.

(vii) Any plans to seek further financial assistance from the FRA or assistance from any other public source.

This statement must be submitted for all applications pending on or filed subsequent to August 1, 1977.

(11) Any information that the applicant deems appropriate to convey a full and complete understanding of the project and its impact or to assist the Administrator in making the statutorily prescribed determinations; and

(12) Any other information which the Administrator may deem necessary concerning an application filed under this part.

(b) When applicant is a trustee and the form of proposed assistance is purchased by the Administrator of trustee certificates, the application shall provide all of the information required in paragraph (a) of this section, and in addition shall provide:

(1) Statement on behalf of the trustee, together with supporting evidence, that such certificates cannot otherwise be sold at a reasonable rate of interest;

(2) Full and complete statement, together with supporting evidence, demonstrating that the project can reasonably be expected to be maintained as a part of a financially self-sustaining railroad system; and

(3) Full and complete statement, together with supporting evidence, that the probable value of the assets of the railroad in the event of liquidation provides reasonable protection to the United States.

§ 258.9 Required exhibits.

There shall be filed with and made a part of each application and copy thereof the following exhibits, except that exhibits filed with the Administrator pursuant to some other statutory provision or regulation which are in the same format as the following exhibits may be incorporated in and made part of the application filed under this Part by reference. While an application is pending, when actual data becomes available in place of the estimated or forecasted data required in exhibits under this Part, such actual data must be reported promptly to the Administrator in the form required in the appropriate exhibit.

(a) *Exhibit A.* Map of applicant's existing railroad with location of project indicated, if appropriate.

(b) *Exhibit B.* Statement showing to the latest available date but in any event to a date no less recent than the end of the third month preceding the date of filing of the application:

(1) Maximum number of locomotive units out of service during each quarter due to business conditions; maximum number of such units out of service dur-

ing each quarter due to mechanical defects; and ratio of each to total ownership quarterly for each of the last three calendar years but not earlier than the quarter ending June, 1974, and the current calender year; and

(2) Maximum number of general service freight cars out of service during each quarter due to business conditions; maximum number of such cars out of service during each quarter due to mechanical defects; and ratio of each to total number of general service freight cars owned by applicant quarterly for each of the last three calendar years but not earlier than the quarter ending June, 1974, and the current calender year.

(c) *Exhibit C.* A copy of applicant's most recent yearend general balance sheet, if available, certified by applicant's independent public accountants, and a copy of applicant's most recent unaudited general balance sheet as of a date no less recent than the end of the third month preceding the date of filing of the application. The unaudited balance sheet shall be presented in account form and detail as required in schedule 200 of the Commission's annual report R–1 or R–2, as appropriate, together with the following schedules (where changes in accounts from the end of the prior year to date of the application have not been significant, copies of the appropriate schedules in the prior year's R–1 or R–2 with marginal notations listing the changes may be submitted):

(1) Particulars of account 704, Loans and Notes Receivable, in form and detail as required in schedule 201 of annual report R–1 for the Class I railroads, and in similar form for the Class II railroads except that for Class II railroads loans and notes receivable that are each less than $25,000 may be combined into a single amount;

(2) Particulars of investments in affiliated companies and other investments in form and detail required in schedules 205 and 206 of annual report R–1, or schedules 1001 and 1002 of annual report R–2, as appropriate;

(3) Particulars of balances in accounts 741, Other Assets, and 743, Other Deferred Charges, in form and detail required in schedule 216 of annual report R–1 or schedule 1703 of annual report R–2, as appropriate;

(4) Particulars of loans and notes payable in form and detail required in schedule 223 of annual report R–1, or schedule 1701 of annual report R–2, as appropriate, as well as information as to bank loans, including the name of the bank, date and amount of the original loan, current balance, maturities, rate of interest, and security, if any;

(5) Particulars of long-term debt in form and detail required in schedules 218 and 219 of annual report R–1 or schedules 670, 695, 901, 902 and 1702 of annual report R–2, as appropriate, together with a brief statement concerning each mortgage, pledge, and other lien, indicating the property or securities encumbered, the mortgage limit per mile, if any, and particulars as to priority;

(6) Particulars of balance in account 784, Other Deferred Credits, in form and detail required in schedule 225 of annual report R–1 or schedule 1704 of annual report R–2, as appropriate; and

(7) Particulars as to capital stock in form and detail as required in schedules 228, 229, and 230 of annual report R–1 or schedule 690 in R–2, as appropriate.

(d) *Exhibit D.* Applicant's most recent annual income statement, if available, certified by applicant's independent public accountants, and a spread sheet showing unaudited monthly and year-to-date income statement data for the calendar year in which the application is filed in account form similar to that required in column (a) of schedule 300 of annual report R–1 or R–2, as appropriate. For those months preceding and ending upon the date of the unaudited balance sheet presented in Exhibit C, the income statement data shall be reported on an actual basis and so noted. For those months between the dates of the unaudited balance sheet and the filing of the application, the income statement data shall be reported on an estimated basis and so noted and shall be submitted in conjunction with corresponding estimated month-end balance sheets. For those months between the date of the application and the end of the year, the income statement data shall be presented on a forecasted basis and so noted and shall be submitted in conjunction with a forecasted balance sheet as at the year end.

(e) *Exhibit E.* Spread sheets showing for each of the four years subsequent to the year in which the application is filed, both before and after giving effect to the proceed of the assistance requested in the application:

(1) Forecasted annual income statement data in account form and detail similar to that required in column (a) of schedule 300 of annual report R–1 or R–2 as appropriate, including the subaccounts comprising line 2 (railway operating expenses), as specified by lines 64, 92 105, 159, 168 and 180 of schedule 320; and

(2) Forecasted year-end balance sheets in account form and detail similar to that required in schedule 200 of annual report R–1 and R–2, as appropriate. These spread sheets shall be accompanied by a statement setting forth the bases for such forecasts.

(f) *Exhibit F.* A spread sheet showing changes in financial position for the year in which the application is filed in account form and detail as required in schedule 309 of annual report R–1 or R–2 as appropriate, as follows:

(1) For that period ending on the date of the unaudited balance sheet in Exhibit C, based upon actual data; and

(2) For that period from the balance sheet date to the end of the year, based upon estimated and forecasted data.

(g) *Exhibit G.* A spread sheet showing forecasted changes in financial position for each of the four calendar years, subsequent to the year in which the application is filed, both before and after giving effect to any funds requested in the application and including a statement showing the bases for such estimates, in account form and detail as required in schedule 309 of the annual report R–1 for Class I railroads and in similar form and detail for Class II railroads.

(h) *Exhibit H.* With respect to equipment proposed to be rehabilitated, improved, maintained, or acquired in the application, a statement indicating number of units and in-service or out-of-service status and, as appropriate:

(1) For locomotives, service type, age, size, horsepower, name of builder, description of work, and unit cost of proposed work; and

(2) For freight cars or intermodal equipment, information as to service type (box, gondola, flat, etc.), age, capacity, description of work, and unit costs of proposed work. Such statement shall show the total cost of the project, types and quantities of work items, unit cost of each item, and distribution of such cost by primary accounts of the Commission's Uniform System of Accounts separated where applicable between material, labor, and other; the ownership of all equipment which is the subject of the project; and the dates on which work is to be commenced or completed. Direct labor, supervision, material costs, contingencies, and any applicable overhead expenses that are included in the total cost of the project should be shown separately and identified.

(i) *Exhibit I.* With respect to the maintenance, rehabilitation, improvement, acquisition, or construction of facilities proposed in the application, a statement showing, as appropriate:

(1) The classification of each line, or part of a line, on which maintenance, rehabilitation, improvement, acquisition, or construction is proposed, as determined in accordance with the final standards and designations under section 503(e) of the Act.

(2) Track Class, as defined by the FRA Track Safety Standards in Part 213 of this chapter, and maximum allowable speed under which each line, or sub-part of a line, referred to above, has been and is being operated and the reasons therefor; the highest track class and maximum allowable speed at which each such line, or subpart of a line, will be designated when the proposed project is completed; and the track class, maximum allowable speed, and signal requirements necessary in the judgment of the railroad to provide safe, reliable and competitive rail services over each line, or subpart of the line, included in or directly affected by the project, together with applicant's recommendations as to:

(i) The most economical method of rehabilitating or improving the physical condition of each line, or subpart of each line, referred to above, to achieve and maintain such line to the track class and maximum allowable speed deemed necessary by the applicant;

(ii) The cost of rehabilitating or improving each line, or subpart of each line, specified above, to meet the minimum safety requirements as defined by the FRA in Part 213 of this chapter for the track class and maximum allowable

speed deemed necessary by the applicant and the cost of installing, rehabilitating, improving, maintaining, and repairing, as necessary, block signal systems, interlockings, automatic train stop, train control, cab signal devices or other similar appliances, methods, and systems in accordance with the FRA requirements in Parts 233, 234 and 236 of this chapter; and

(iii) An economic analysis of the cost of installing, rehabilitating, and improving facilities described in subparagraph (ii) above.

(3) The identification number of each grade crossing on each line, or sub-part of a line, included in the project, as provided in the United States Department of Transportation/Association of American Railroads Crossing Inventory, and the safety standards, signal and other requirements necessary in the judgment of the railroad to prevent loss of life and serious accident or injury at such grade crossings.

(4) Types and quantities of work items, unit cost of each item, cost of project in total and by parts or sub-parts into which the project may be reasonably divided, and distribution of such costs by primary accounts of the Commission's Uniform System of Accounts, separated where applicable between material, labor and other. Direct labor, supervision, material costs, contingencies, and any applicable overhead expenses that are included in the costs of the project should be shown separately and identified.

NOTE.—The account forms referred to in the exhibits are those of the Commission's Uniform System of Accounts for Railroad Companies in use on August 31, 1976. However, the information required in any of the exhibits shall give effect to any modification of the Commission's Uniform System of Accounts for Railroad Companies in effect on the date of filing the application.

§ 258.11 Preapplication and application procedure.

(a) When a railroad has developed plans for a project for which it may wish to seek assistance under this Part, a responsible official of the railroad may request a meeting with the Associate Administrator for Federal Assistance of the FRA to discuss those plans. Upon receipt of such request, the Associate Administrator will promptly schedule a meeting at which the railroad will present to representatives of the FRA the project and discuss with them information which must be submitted in the application and the type of terms and conditions and financing documents that will be utilized in connection with financial assistance provided under section 505. Applicants are not required to prepare a draft application or other special information for the preapplication conference; however, applicants should be prepared to discuss information which management has used in making its initial decision to seek assistance.

(b) The following procedure shall govern the execution and filing of the application:

(1) The original application shall bear the date of execution and be signed with ink by or on behalf of the applicant and shall bear the corporate seal in the case of an applicant which is a corporation. Execution shall be by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership, or if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters therein set forth. Persons signing the application on behalf of the applicant shall also sign a certificate in form as follows:

---------- certifies
(Name of official)
that he is the ----------
(Title of official)
---------- of the ----------;
(Name of railroad)
that he is authorized on the part of said applicant to sign and file with the Administrator this application and exhibits attached thereto; that the consent of all parties whose consent is required, by law or by binding commitment of the applicant, in order to make this application has been given; that he has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof relating to the ----------
(Name of railroad)
----------; that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief.

(Name of official)

(Date)

(2) There shall be made a part of the original application the following certificate by the Chief Financial Officer of the applicant:

---------- certifies
(Name of officer)
that he is ----------
(Title of officer)
of ----------; that he
(Name of railroad applicant)
has supervision over the books of account and other financial records of the railroad applicant and has control over the manner in which they are kept; that such accounts are maintained in good faith in accordance with the effective accounting and other orders of the Interstate Commerce Commission; that such accounts are adequate to assure that proceeds from the financing being requested will be used solely and specifically for the purposes authorized; that he has examined the financial statements and supporting schedules included in this application and to the best of his knowledge and belief those statements accurately reflect the accounts as stated in the books of account; and that, other than the matters set forth in the exceptions attached to such statements, those financial statements and supporting schedules represent a true and complete statement of the financial position of the railroad applicant and that there are no undisclosed assets, liabilities, commitments to purchase property or securities, other commitments, litigation in the courts, contingent rental agreements, or other contingent transactions which might materially affect the financial position of the railroad applicant.

(Name of official)

(Date)

(3) The original application and supporting papers, and ten (10) copies thereof, shall be filed with the Associate Administrator for Federal Assistance of the Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed.

§ 258.13 Information requests.

If an applicant desires that any information submitted in an application or supplement thereto not be released by the Administrator upon request from a member of the public, the applicant must so state and must set forth any reasons why such information should not be released, including particulars as to any competitive harm which would probably result from release of such information. The Administrator will keep such information confidential as permitted by law.

§ 258.15 Waiver and modification.

The Administrator, upon good cause shown, may waive or modify any requirement of this part not required by law, or make any additional requirements he deems necessary.

Subpart B—Standards for Evaluations and Determinations Under Section 505(b)(2) of the Act

§ 258.17 Purpose.

This subpart prescribes standards in accordance with which the Administrator will make the evaluations and determinations required under section 505(b)(2) of the Act.

§ 258.19 Definitions.

As used in this subpart—

(a) "Consolidation" means the combination of separate rail facilities into fewer facilities and the abandonment of the excess facilities, except that "consolidation" shall not include the combination by a single railroad of double track into single track where the lines do not constitute separate physical and operating systems.

(b) "Coordination" means the combination of rail freight traffic flows through the use of joint facilities arrangements or internally that result in a partial or complete discontinuance of service on the less essential facility.

(c) "Corridor of consolidation potential" means a corridor of consolidation potential as identified in the Final Standards, Classification and Designation of Lines of Class I Railroads in the United States, published by the United States Department of Transportation pursuant to section 503(e) of the Act.

(d) "Mainline" means a line that has an overall annual traffic density of at least five million gross ton-miles per mile.

(e) "Ratio" means the applicant's fiscal 1975 rate of return on total capital, represented by the ratio which such applicant's net income, including interest on long-term debt, bore to the sum of average shareholders' equity, long-term debt, and accumulated deferred income tax credits in fiscal year 1975.

(f) "Return" means the anticipated after-tax, internal rate of return on a proposed project, computed in accordance with the methodology set forth in Subpart C of Part 260 of Title 49 of the Code of Federal Regulations (42 FR 4652, January 25, 1977).

(g) "Spread" means the difference between the Return and the cost of a project, as applicable in each paragraph of § 258.23(b), computed by subtracting that cost from the Return.

§ 258.21 Evaluation process.

(a) Section 505(b)(2) of the Act requires the Administrator to consider the following three factors in determining if financial assistance applied for under this part is in the public interest:

(1) The availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed and the applicant's Ratio.

(2) The interest of the public in supplementing such other funds as may be available for railroad financing; and

(3) The public benefits to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.

(b) In accordance with section 505(a) of the Act, this subpart sets forth standards for each of the three factors listed above, by which the Administrator will make his determination of whether the requested financial assistance is in the public interest. Except where otherwise stated in this subpart, all of the standards must be satisfied in order for the applicant to qualify for the requested financial assistance. The Administrator retains discretion to determine the appropriate level of funding for all projects that qualify for assistance.

§ 258.23 Cost of funds available from other sources.

(a) *General.* Section 258.7(a)(7) requires each applicant to submit a statement on the availability of funds from alternative sources and efforts which have been made to secure such funds. Alternative sources of funds that applicants should explore include money borrowed without a Federal guarantee (including public or private placements of funded or unfunded debt, bank loans, loans from shippers and suppliers, and loans from affiliated companies), the use of internal funds, and the issuance of new common or preferred equity. The standards contained in paragraph (b) of this section set forth conditions that will give rise to a presumption by the Administrator that funds are available from each of these sources at a cost which is reasonable under principles of prudent railroad financial management. In order to qualify for financing under section 505, applicants must show in their statement under § 258.7(a)(7), for each source of funds listed in paragraph (b) below of this section, either that the condition which gives rise to the presumption does not exist or that other circumstances and facts described below as necessary to rebut the presumption do exist. Because the availability of a Federal guarantee of obligations under section 511 of the Act is uniquely within the jurisdiction of the FRA, the Administrator will analyze each application under section 505 of the Act to determine whether all or any part of the application would qualify for loan guarantees under section 511 and whether the cost of such guaranteed obligations is reasonable under principles of prudent railroad financial management.

(b) *Standards.*—(1) *Borrowed money* will be presumed to be available at a reasonable cost to the applicant if the applicant has a Moody's bond rating for any outstanding long-term debt (other than equipment obligations) of Baa or higher, or, in the case of an applicant that does not have indebtedness that is rated by Moody's, the ratio of the applicant's consolidated net operating income before taxes to the sum of its consolidated fixed and contingent charges for the three calendar years preceding the date of submission of the application equals or exceeds the average of such ratios for all Class I railroads with debt securities rated Baa as at the last day of the most recent calendar year for which all such railroads shall have reported their results to the Commission. The applicant may rebut the presumption by showing that potential sources of such borrowed money have been thoroughly explored and that no borrowed money has been found to be available. If borrowed money has been found to be available, the applicant may still rebut the presumption by showing that:

(i) The forecasted financial condition and operating results of the applicant (after giving effect to the project's net cash stream) appear inadequate to provide reasonable assurance that the applicant will be able to service its total debt; or

(ii) The amount of money to be borrowed is less than 25 percent of the denominator of the applicant's Ratio and the borrowing would result in a reduction of more than 10% in the applicant's Ratio, computed by adding an amount equal to the product of (A) the amount of money to be borrowed and (B) the sum of the spread between the Return and the after-tax, effective, annualized cost (expressed as a percentage and including interest, placement, trustee's and other related charges) of the money to be borrowed (hereafter in this § 258.23(b)(1) referred to as "Cost") and the pre-tax effective interest rate to the numerator of the Ratio, and an amount equal to the product of (C) the amount of money to be borrowed and (D) the sum of 100% and the spread between the Return and the Cost to the denominator of the Ratio.

(2) *Internal funds* will be presumed to be available at a reasonable cost to the applicant if, on the date of the most recent unaudited general balance sheet submitted under Exhibit C, the consolidated current assets of the applicant (consisting of cash, cash equivalents, accounts and notes receivable net of noncollectable accounts, and prepaid expenses) exceeds the sum of consolidated current liabilities of the applicant and consolidated long-term debt due within one year, after deducting special funds, if any, to be used to pay that debt, said amount representing "Excess Working Capital".

The applicant may rebut this presumption by showing that:

(i) The deployment of Excess Working Capital to finance the proposed project is likely to impair the continuing operations of the railroad; or

(ii) The railroad's Ratio is reduced by more than 10 percent when an amount equal to the product of (A) the Excess Working Capital to be used for the project and (B) the spread, if negative, between the Return and the after-tax opportunity cost (expressed as an annual percentage rate representing the return available on short-term securities customarily invested in by the applicant) is added to both the numerator and the denominator of the Ratio.

(3) *New issues of common stock by the applicant or its holding company* will be presumed to be available at a reasonable cost to the applicant if the current market price of its common shares, adjusted to reflect the cash impact, if any, of the proposed project, is higher than the current tangible book value per common share, computed in accordance with the Uniform System of Accounts of the Interstate Commerce Commission.

The applicant may rebut the presumption by showing that the possibility of such an issuance has been thoroughly explored and that a viable market for such an issuance has not been found to be available. If a viable market for such an issuance has been found to be available, the applicant can still rebut the presumption by showing that:

(i) The consideration received from an offering of common stock (hereafter in this § 258.23(b)(3) referred to as "Consideration") plus the project's cash impact on the applicant (computed by multiplying the Return and the Consideration) would result in a reduction in the applicant's current tangible book value per common share;

(ii) The issuance and sale would result in a substantial deterioration in the market price per common share; or

(iii) The Consideration is less than 25 percent of the denominator of the applicant's Ratio, and the issuance and sale would result in a reduction of more than 10 percent in the applicant's Ratio, computed by adding an amount equal to the

product of the Return and the Consideration to the numerator of the Ratio, and an amount equal to the product of the Consideration and the sum of 100 percent and the Return to the denominator of the Ratio.

(4) *New issues of preferred stock by the applicant or its holding company* will be presumed to be available at a reasonable cost to the applicant.

The applicant may rebut the presumption by showing that the possibility of such an issuance has been thoroughly explored and that a viable market for such an issuance has not been found to be available. If a viable market for such an issuance has been found to be available, the applicant can still rebut the presumption by showing that:

(i) The forecasted financial condition and operating results of the applicant (after giving effect to the project's net cash stream) appear inadequate to provide reasonable assurance that the applicant can pay dividends on a current and continuing basis; or

(ii) The amount of consideration to be received by the applicant or its holding company upon the issuance and sale of new preferred stock equity (hereafter in this § 258.23(b)(4) referred to as "Consideration") is less than 25 percent of the denominator of the applicant's Ratio, and the issuance and sale would result in a reduction of more than 10 percent in the applicant's Ratio, computed by adding an amount equal to the product of the Return and the Consideration to the numerator of the Ratio, and an amount equal to the product of (A) the Consideration and (B) the sum of 100 percent and the spread between the Return and the effective annualized cost (expressed as a percentage and including the dividend rate) of the preferred stock to the denominator of the Ratio.

(5) If the applicant fails to rebut any of the presumptions set forth in paragraphs (1) through (4) of this section, the Administrator will consider such other facts and arguments as the applicant may put forward to show that funds are not available to it at a cost which is reasonable under principles of prudent railroad financial management.

§ 258.25 Public interest in supplementing total railroad funding.

(a) *General.* The standards set forth in paragraph (b) of this section will enable the Administrator to evaluate an applicant's long-term role in a viable national rail system in order to determine that the application is consistent with "the interest of the public in supplementing such other funds as may be available for railroad financing," as stated in section 505(b)(2)(B) of the Act.

(b) *Standards.* (i) Effective August 1, 1977, for all then-pending or subsequently filed applications, management's program submitted under § 258.7(a)(10) of this part is reasonably likely to assure that essential rail freight services currently provided by the applicant will continue to be provided by the applicant as a viable railroad or by another carrier as the result of a merger of companies or consolidation of lines, and the financing applied for will contribute to that program.

(ii) The applicant is reasonably likely to be able to redeem any preference shares issued to finance the project according to a dividend and redemption schedule which results in a yield which, expressed as an annual percentage rate from the date of issuance of such shares, shall be as follows:

(A) in the case of shares whose proceeds are to be expended solely to reduce the level of deferred maintenance on facilities, equal to the applicant's average rate of return on total capital, as defined in section 506(a)(5) of the Act, for the three fiscal years preceding the date of submission of the application, except where the public interest in financing the project warrants a lower yield;

(B) in the case of shares whose proceeds result in no reduction in the level of deferred maintenance on facilities, equal to the cost of money to the government, except where the public interest in financing the project warrants a lower yield; and

(C) in all other cases, equal to a weighted average yield determined by applying the yields obtained in paragraphs (b)(ii)(A) and (B) of this section to the appropriate portions of the total project cost.

In no event shall the yield under this subparagraph (ii) be lower than the minimum permissible yield determinable under sections 506(a)(3) and (4) of the Act.

§ 258.27 Public benefits and costs.

(a) *General.* Each project for which assistance is sought must satisfy a set of public benefit standards based on national goals and objectives in order to qualify for funding. Public benefits and costs related to rail facility improvements encompass a wide range of values and are not easily quantified. Because of the multiplicity of project types, variations between applicants and their markets, and the difficulty of quantifying certain benefits and costs, consideration of public benefits and costs is accomplished through identification of broad categories of projects for which the public benefits of proposed projects are substantial and will equal or exceed whatever monetary and social costs are involved, subject to an assessment of its environmental impact. As provided in § 258.29, priority within each category will be given to projects that provide safety improvements.

(b) *Standards.* The public benefits of a proposed project will be deemed to justify the public costs of the project if the project satisfies any of the following standards.

(1) *Essential Freight Services.* The proposed project enhances the ability of the applicant or other carriers to provide essential freight services by acquiring by lease, purchase or merger, constructing, rehabilitating, or significantly improving mainlines, including yards or other facilities used primarily to serve traffic moving on such lines, which:

(i) Are located in a corridor of consolidation potential, entail a consolidation of mainlines or coordination of traffic of the applicant and at least one other carrier, and will have a current or reasonably prospective annual traffic density of not less than 20 million gross ton-miles per mile;

(ii) Are not located in a corridor of consolidation potential, entail a consolidation of mainlines or coordination of traffic by the applicant or between the applicant and at least one other carrier, and will have a current or reasonably prospectvie annual traffic density of not less than 20 million gross ton-miles per mile;

(iii) Are not located in a corridor of consolidation potential and have a current or reasonably prospective annual traffic density of not less than 20 million gross ton-miles per mile;

(iv) Are located in a corridor of consolidation potential, entail a consolidation of facilities or coordination of traffic of the applicant and at least one other carrier, and will have a current or reasonably prospective annual traffic density of not less than two million net tons of revenue freight per mile originating or terminating on the line but have a current or reasonably prospective overall annual traffic density of less than 20 million gross ton-miles per mile;

(v) Are not located in a corridor of consolidation potential, entail a consolidation of facilities or coordination of traffic by the applicant or between the applicant and at least one other carrier, and will have a current or reasonably prospective annual traffic density of less than 20 million gross ton-miles per mile;

(vi) Are located in a corridor of consolidation potential and have a current or reasonably prospective annual traffic density of not less than two million net tons of revenue freight per mile originating or terminating on the line but have a current or reasonably prospective overall annual traffic density of less than 20 million gross ton-miles per mile;

(vii) Are located in a corridor of consolidation potential and have a current or reasonably prospective annual traffic density of not less than two million net tons of revenue freight per mile originating or terminating on the line; or

(viii) Are not located in a corridor of consolidation potential and have a current or reasonably prospective annual traffic density of less than two million net tons of revenue freight per mile originating or terminating on the line, but have a current or reasonably prospective overall annual traffic density of less than 20 million gross ton-miles per mile.

The current annual traffic density of a line under this standard in net tons of revenue freight per mile originating or terminating on the line or gross ton-miles per mile will be deemed to be the average annual traffic density for the three calendar years preceding the filing of the application. In segmenting lines for the purpose of determining traffic density in (iv), (v), (vi) and (vii) above, originating and terminating traffic is measured from its originating or terminating point to the next operationally

feasible interchange point consistent with traffic flows. A forecasted level of traffic will be deemed to be "reasonably prospective" under this standard if the increment of traffic above the average annual traffic density for the three calendar years preceding the filing of the application is accounted for by newly generated traffic which applicant demonstrates is (1) the result of an increase in the capacity of shippers or receivers currently located on the line to produce or consume commodities that are traditionally shipped by rail or is the result of new shippers or receivers locating on the line and (2) cannot be shipped by an alternate rail carrier.

(2) *Competitive Freight Services.* The application provides for:

(i) Rehabilitation or improvement of a line of an applicant who is competitive with one and only one rail carrier in the market served by the line and is shown by applicant to be economic in light of the current or reasonably prospective levels of traffic in the market and the number of alternative rail carriers in the market; or

(ii) Financial assistance to enable an applicant to withdraw from a market which has more than two competing rail carriers, where the applicant demonstrates that the reasonably prospective levels of traffic in the markekt are insufficient to enable all of the railroads competing in that market to earn a reasonable rate of return.

(3) *Special Projects.* The proposed project will eliminate identifiable and severe public safety hazards.

(4) *Equipment Rebuilding.* The proposed project provides for rebuilding equipment which the applicant requires in order to serve adequately traffic which originates or terminates on applicant's lines at levels which are consistent with the applicant's average market share in the commodity hauled for the three calendar years preceding the filing of the application or are reasonably prospective as defined in subparagraph (b)(1) of this section, and, in the case of locomotives, are necessary to the performance of local service and switching.

§ 258.29 Order of funding.

(a) Where appropriated funds are inadequate to finance all projects which qualify for Federal assistance, projects will be funded in the order in which the categories in which they fall are set forth in section 258.27 of this subpart; that is, in descending order of priority from § 258.27(b)(1) to § 258.27(b)(4) and within § 258.27(b)(1), from paragraph (i) to paragraph (viii).

(b) Where appropriated funds are adequate to finance some but not all projects which qualify for Federal assistance within any one of the categories described in paragraph (a) of this section, priority for funding will be given to projects that provide safety improvements and signals, including underpasses or overpasses at railroad crossings at which injury or loss of life has frequently occurred or is likely to occur.

(c) As between two projects within the same category, as described in paragraph (a) above, which both either provide or do not provide safety improvements and signals, priority for funding will be given to the project which was first proposed in a complete application.

14. An Appendix is added to Part 258 as follows:

APPENDIX—ENVIRONMENTAL ASSESSMENTS

Part I: Description of the environment in the area of the project before commencement of such project, together with statement of other Federal activities in the area which are known, or should be known, to the applicant. This description shall include, without limitation, the following information:

(A) *Demographic data.* Statement of population and growth characteristics of area and of any population and growth assumptions made by applicant in planning the project. Such statement should use the rates of growth in the projection compiled for the Water Resources Council by the Bureau of Economic Analysis of the Department of Commerce and the Economic Research Service of the Department of Agriculture, commonly referred to as the OBERS projection of regional economic activity in the United States. Applicants should refer to 1972 OBERS projections for economic areas, and provide 1969 data and 1980 projections for the following: population; manufacturing earnings; transportation, communications and public utilities earnings; agriculture, forestry and fisheries earnings; and mining earnings. Information should be provided for economic areas which the applicant's proposal would affect.

(B) *Current land use patterns.* Statement of the project's relationship to proposed land use plans, policies, and controls of affected communities, including, where appropriate, maps or diagrams. Where the project is inconsistent with any such plans, policies, or controls, the statement should describe and explain in detail the reasons for such inconsistency.

(C) *Characteristics of current operations.* The Applicant should indicate the maximum allowable speed and frequency of current rail traffic on any affected line, the number and location of grade crossings, and the length of time such grade crossings are blocked during a typical day. The Applicant should indicate derailments and fatalities or injuries resulting from accidents involving trains and motor vehicles or pedestrians on such lines. The Applicant should also indicate the hours of operation on such lines and noise levels of rail operations at 100' from the right of way. Applicants should refer to the United States Environmental Protection Agency document titled "Information on Levels of Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety", which provides a system of measuring day and night noises on a weighted average.

(D) *Air quality.* The Applicant should indicate the air quality in the region, as found in the state Air Quality Implementation Plans to meet ambient air quality standards. Each state is required to prepare such a plan under the Clean Air Act (42 U.S.C. 1857). Some states are required to have Transportation Control Plans to meet ambient air quality standards where transportation sources pose major air quality problems. Applicants should refer to state air quality agencies or to the Regional Offices of the U.S. Environmental Protection Agency for guidance.

(E) *Wetland or coastal zones.* Location, types, and extent of wetland areas or coastal zones that might be affected by the project.

(F) *Properties and sites of historical or cultural significance.* Identification of districts, sites, buildings and other structures, and objects of historical, architectural, archeological, or cultural significance that may be affected by the project. This should be accomplished by consulting the National Register and applying the National Register Criteria (36 CFR Part 800) to determine which properties that may be affected by the project are included in or eligible for inclusion in the National Register of Historic Places. The National Register is published in its entirety each February in the FEDERAL REGISTER. Monthly additions and listings of eligible properties are published in the FEDERAL REGISTER the first Tuesday of each month. The Secretary of the Interior will advise, upon request, whether properties are eligible for the National Register. Officials designated by their Governors to act as State Historic Preservation Officers responsible for state activities under the National Historic Preservation Act may also be consulted. A listing of these state officials may be found at 36 CFR 60.5(d), or may be obtained from the Director, National Parks Service, U.S. Department of the Interior, Washington, D.C. 20240.

(G) *Publicly-owned parklands, recreational areas, and waterfowl refuges, and historic sites (45 U.S.C. 1653(f)).* (i) Protected land proposed to be used. Describe any publicly-owned land from a public park, recreation area or wildlife and waterfowl refuge or any land from an historic site or wildlife and waterfowl refuge or any land from an historic site which would be affected or taken by the proposed program or project, including the size of the land proposed to be affected or taken, available activities on the land, use, patronage, unique or irreplaceable qualities, relationship to other similarly used land in the vicinity of the proposed project, and maps, plans, slides, photographs, and drawings in sufficient scale and detail to clearly show proposed project. Include a description of impacts of the proposed project on the land and changes in vehicular or pedestrian access.

(ii) Significant area. Include a statement of the national, State, or local significance of the entire park, recreation area, wildlife or waterfowl refuge, or historic site as determined by the Federal, State or local officials having jurisdiction thereof. In the absence of such a statement, protected land is presumed to be located in an area of national, State or local significance.

Part II: The probable impact of the project on the environment and measures which can be taken to mitigate adverse impacts. The applicant shall (1) assess the positive and negative environmental effects, including primary, secondary, and other foreseeable effects, on each of the areas specified in Part I above, including long-term impacts associated with the increased intensity, if any, of rail operations, and (2) list measures which can be taken to mitigate adverse impacts. Mitigation measures include control of hours of operation, coordination of street blockages with adjacent communities, dust and erosion control measures, and proposed methods of tie disposal. In addition, the applicant shall provide the following.

(A) Statement of the extent to which any of the impacts of the project represent irreversible or irretrievable commitments of resources. This requires identification of the extent to which implementation of the project irreversibly curtails the range of potential uses of the environment. "Resources" include the natural and cultural resources lost or destroyed as a result of the project.

(B) Statement of the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This shall include a brief discussion of the extent to which the proposed action involves trade-offs between short-term environmental gains at the ex-

pense of long-term losses, or vice versa, and a discussion of the extent to which the proposed action forecloses future options.

(C) Statement of any probable adverse environmental effect which cannot be avoided, such as changes in exposure to noise and changes in level of noise or vibration; water or air pollution; undesirable land use patterns; impacts on public parks and recreation areas, wildlife and waterfowl refuges, or historic sites; damage to life systems; congestion of street traffic in adjacent communities; delays in the provision of essential services (police, fire, ambulance), anticipated changes in accident patterns and other threats to health; and other consequences adverse to the environmental goals set out in section 101(b) of the National Environmental Protection Act, 42 U.S.C. 4331(b). In considering noise levels, applicants should note any conflicts between projected noise levels from rail operations and HUD standards for noise at sensitive sites, such as schools, hospitals, parks and residential locations. (U.S. Department of Housing and Urban Development, "Noise Abatement and Control: Department Policy Implementing Responsibilities and Standards," Departmental Circular 1390.2, Chart: External Noise Exposure Standards for New Construction, April 4, 1971)

(D) Statement of construction impacts, identifying any special problem areas and including: (i) Noise impacts from construction and any specifications setting maximum noise levels.

(ii) Disposal of spoil and effect on borrow areas and disposal sites (include any specifications).

(iii) Measures to minimize effects on traffic and pedestrians.

(iv) Consideration of non-point source pollution such as might result from water runoff.

(E) Statement of any positive or negative impacts on energy supply and natural resource development, including, where applicable, any effect on either the production or consumption of energy or other natural resources. Discuss such effects if they are significant.

(F) Discussion of problems and objections raised by other Federal, State or local agencies, and citizens with respect to impact of the project on the environment.

Part III. Discussion of any alternatives to the project that have been considered with respect to impact on the environment. If cost-benefit analyses have been performed, the extent to which environmental costs have been reflected in the analysis should be stated. Underlying studies, reports, and other information obtained and considered in preparing each section of the statement should be identified. For energy comparisons, a possible source is Oak Ridge National Laboratory Report, "Energy Intensiveness of Passenger and Freight Transport Modes" by Dr. Eric Hirst, April, 1973. For analyzing community impacts, the following report may be useful: "The Impacts on Communities of Abandonment of Railroad Service," July, 1975, prepared for the U.S. Railway Association by the Public Interest Economics Center, Washington, D.C. In examining the environmental effects of highway transport as an alternative to rail service, applicants may wish to use the following publication: "A Study of the Environmental Impact of Projected Increases in Intercity Freight Traffic, August, 1971, prepared for the Association of American Railroads by Battelle, Columbus, Ohio."

(Sec. 505, Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

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