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| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| NRC | USDA/ASCS | | NRC | USDA/ASCS |
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| | HEW/FDA | | | HEW/FDA |
| | HEW/HRA | | | HEW/HRA |
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| | HEW/PHS | | | HEW/PHS |

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.**


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## List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 7932.....Pub. L. 95–94
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# rules and regulations

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

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

## Title 7—Agriculture

### CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

### PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

### Conforming Technical Amendments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment is made to conform the Regulations for Cotton Classification under Cotton Futures Legislation (7 CFR 27.1–27.102) to reflect enactment of the U.S. Cotton Futures Act (90 Stat. 1841–46) which supersedes cotton futures provisions of the Internal Revenue Code of 1954. The revisions are procedural and nonsubstantive in nature and for the most part are made to reflect the new section numbers assigned to the legislation when it was codified.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald A. Harbaugh, Deputy Director, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–2145).

SUPPLEMENTARY INFORMATION: As a result of the enactment of the U.S. Cotton Futures Act (90 Stat. 1841–1846) on October 4, 1976 certain revisions are necessary in the Regulations for Cotton Classification under Cotton Futures Legislation (7 CFR 27.1–27.102). The U.S. Cotton Futures Act supersedes similar cotton futures provisions of the Internal Revenue Code of 1954. One of the types of futures contracts authorized in the act is a basis grade contract. This type contract has been called a 4863 contract in regulations—in reference to the section of the act where the contract is authorized. When the new legislation was codified the section numbers changed, thus requiring this revision in the regulations. In addition, an obsolete provision at § 27.7 is being deleted from the regulations.

The notice, public rulemaking procedure and effective date requirements contained in 5 U.S.C. 553 are omitted as unnecessary since the revisions contained herein are procedural and nonsubstantive in nature. Accordingly, pursuant to authority contained in subsection 15b (j), 90 Stat. 1841–1846, said regulations are hereby amended as follows:

1. In § 27.2 paragraphs (a), (i) and (k) are revised to read as follows:

**§ 27.2 Terms defined.**

* * * * *

(a) *The act.* The United States Cotton Futures Act (90 Stat. 1841–1846; 7 U.S.C. 15b).

* * * * *

(i) *Exchange.* Exchange, board of trade, or similar institution or place of business, at, on, or in which a basis grade contract may be made.

* * * * *

(k) *Basis grade contract.* Contract of sale of cotton for future delivery mentioned in the act, made at, on, or in any exchange in compliance with subsection 15b(f) of the act.

* * * * *

2. Section 27.3 is revised to read as follows:

**§ 27.3 Requirements of subsection 15b (f) of the act.**

The inspection, sampling, classification, and Micronaire determination of cotton pursuant to subsection 15b(f) of the act shall be performed as prescribed in this subpart. All tenders of cotton and settlements therefor under basis grade contracts shall be made subject to the regulations in this subpart. No contract shall for the purposes of this subpart be deemed to comply with subsection 15 b(f) of the act if it contain or incorporate therein, by reference or otherwise, any provision or any bylaw, rule, or custom of an exchange which is inconsistent or in conflict with any requirement of said subsection 15b(f), nor if the parties enter into any collateral or additional agreement or understanding, either verbal or written, respecting the subject matter of such contract which is inconsistent or in conflict with any requirement of said subsection 15b(f).

**§§ 27.4 and 27.5 [Amended]**

3. In §§ 27.4 and 27.5 substitute the words "basis grade" for "section 4863."

**§ 27.7 [Deleted]**

4. Delete § 27.7 in its entirety.

**§ 27.14 [Amended]**

5. In § 27.14 substitute the words "basis grade" for "section 4863."

**§§ 27.31 and 27.42 [Amended]**

6. In §§ 27.31 and 27.42 substitute the words "subsection 15b(f)" for "section 4863."

**§§ 27.43 and 27.44 [Amended]**

7. In §§ 27.43 and 27.44 substitute the words "basis grade" for "section 4863."

**§ 27.45 [Amended]**

8. In § 27.45 in the first sentence, substitute the words "subsection 15b (f)" for "section 4863" and in the third sentence stitute the words "subsection 15b(f)" for "section 4863."

**§ 27.47 [Amended]**

9. In § 27.47 substitute the words "basis grade" for "section 4863" in two places.

**§§ 27.52 and 27.53 [Amended]**

10. In §§ 27.52 and 27.53 substitute the words "subsection 15b(f)" for "section 48.63."

**§§ 27.62–27.65 and 27.73 [Amended]**

11. In §§ 27.62, 27.63, 27.64, 27.65 and 27.73 substitute the words "basis grade" for "section 4863" wherever they appear.

**§ 27.94 [Amended]**

12. In § 27.94 the first sentence is revised to read as follows:

**§ 27.94 Spot markets for contract settlement purposes.**

The following are designated as spot markets for the purpose of determining as provided in paragraph 15b(f)(3) of the act, the differences above or below the contract price which the receiver shall pay for grades other than the basis grade tendered or delivered in settlement of a basis grade contract:

* * * * *

13. Section 27.95 is revised to read as follows:

**§ 27.95 Spot markets to conform to act and regulations.**

Every bona fide spot market shall, as a condition of its designation and of the retention thereof for the purposes of the act, conform to subsection 15b(d) and paragraph 15b(f)(3) of the act and the requirements of §§ 27.96–27.102.

14. Section 27.99 is revised to read as follows:

**§ 27.99 Value of grade where no sale; determination.**

Whenever no sale of a particular grade of cotton shall have been made on a given day in a particular bona fide spot market, the value of such grade in that market on that day, which shall be used in calculating the commercial differences to be applied, pursuant to paragraph 15b(f)(3) of the act, in the settle-

ment of a basis grade contract, shall be determined in accordance with § 27.100.

(90 Stat. 1841–1846; (7 U.S.C. 15b).)

Effective Date: August 11, 1977.

Dated: August 8, 1977.

WILLIAM T. MANLEY,
*Acting Administrator.*

[FR Doc.77-23233 Filed 8-10-77;8:45 am]

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

[Valencia Orange Reg. 568]

## PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Aug. 12–18, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–3545).

SUPPLEMENTARY INFORMATION: Findings. (1) pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valenica oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is somewhat easier this week. Average f.o.b. price was $4.34 per carton on 642 cars for the week ended August 4, as compared with $4.32 per carton on 562 cars the previous week. Track and rolling supplies at 370 cars were down 49 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information becomes available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on August 9, 1977.

### § 908.868 Valencia Orange Regulation 568.

(a) *Order.* (1) The quantities of Valencia orange grown in Arizona and designated part of California which may be handled during the period August 12, 1977, through August 18, 1977, are hereby fixed as follows:

(i) District 1: 254,000 cartons;

(ii) District 2: 396,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

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

Dated: August 10, 1977.

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

[FR Doc.77-23436 Filed 8-10-77;11:22 am]

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[Tokay Grape Reg. 13]

## PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

### Regulation of Grade and Container Markings

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade requirements for Tokay grapes and marking requirements for the containers in which the grapes are shipped. This action is necessary to assure that the grapes shipped will be of suitable quality in the interest of consumers and producers.

EFFECTIVE DATE: August 20, 1977, through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the provisions of the marketing agreement and Order No. 926 (7 CFR Part 926), hereinafter referred to collectively as the "order." The order regulates the handling of Tokay grapes grown in San Joaquin County, California, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The regulation was recommended by the Industry Committee, established under the order. It is hereby found that the regulation of Tokay grapes, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This regulation is based upon an appraisal of the current and prospective crop and marketing conditions for Tokay grapes. The committee estimates that 1977 production of Tokay grapes will be about 152,181 tons. This is about 4,000 tons more than the 1976 crop. Fresh shipments are estimated at 20,125 tons as compared to about 25,000 tons last season. The grade and container requirements hereinafter provided are necessary to prevent the handling of fresh Tokay grapes of lesser quality so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maintaining orderly marketing conditions in the interest of producers and consumers. The requirements are that such grapes meet the grade and size specifications of U.S. No. 1 Table grapes and that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. Each container of such grapes must bear a Federal-State Inspection Service lot number in plain letters and figures on one outside end. The requirement for more even distribution of color (30 percent of the grapes in the lower quarter of each bunch showing characteristic color) is also included to assure the availability to consumers of Tokay

grapes of satisfactory quality. Compliance with the container marking requirement will verify inspection thus assuring compliance with the quality requirements specified herein.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 20, 1977. A reasonable determination as to supply of, and the demand for, Tokay grapes must await the development of the crop thereof, and adequate information thereon was not available to the Industry Committee until July 27, 1977, on which date an open meeting was held, after giving due notice thereof, to consider the need for and the extent of regulation of shipments of such grapes. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such grapes are expected to begin on or about August 25, 1977; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee, information concerning such provisions and effective time has been disseminated among handlers of such grapes; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

Therefore, a new § 926.314 is added which reads as follows:

§ 926.314 **Tokay Grape Regulation 13.**

(a) During the period August 20, 1977, through September 30, 1977, no handler shall ship:

(1) Any Tokay grapes, grown in the production area, which do not meet the grade and size specifications of U.S. No. 1 Table Grapes and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes, grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definition.* As used herein, the terms "handler", "ship", and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Table Grapes (7 CFR 51.880–51.912).

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

Dated: August 8, 1977.

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

[FR Doc.77-23235 Filed 8-10-77;8:45 am]

## PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

### Increase in Expenses for 1976–77 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document increases from $64,908.03 to $70,908.03 expenses reasonable and likely to be incurred during the 1976–77 fiscal period by the Cranberry Marketing Committee. The committee is established under a Federal marketing order regulating the handling of cranberries. Expenses of the committee will be higher than initially estimated primarily to cover the cost of additional meetings.

DATES: Effective for fiscal period September 1, 1976, through August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: On July 14, 1977, notice of rulemaking was published in the FEDERAL REGISTER (42 FR 36267) regarding a proposed increase in expenses for the fiscal period beginning September 1, 1976, through August 31, 1977, pursuant to the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The notice invited interested persons to submit written data, views, or arguments through August 1, 1977. No such material was submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposal set forth in the notice which was submitted by the Cranberry Marketing Committee (established pursuant to said marketing agreement and order) it is hereby found that the amendment, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this amendment was published in the FEDERAL REGISTER on July 14, 1977, and no objection to this amendment was received; (2) in order for the committee to meet obligations incurred in accordance with the provisions of the amended marketing agreement and order during the 1976–77 fiscal period an immediate increase in the previously approved expenses is necessary, and (3) no increase in the rate of assessment fixed for the 1976–77 fiscal period is necessary since income already available to the committee is sufficient to cover the increase in expenses.

Therefore, the provisions of paragraph (a) of § 929.217 (41 FR 47457) are hereby amended to read as follows:

§ 929.217 **Expenses and rate of assessment.**

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the fiscal period September 1, 1976, through August 31, 1977, will amount to $70,908.03.

* * * * *

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

Dated: August 8, 1977.

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

[FR Doc.77-23232 Filed 8-10-77;8:45 am]

## CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

## PART 1822—RURAL HOUSING LOANS AND GRANTS

### Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

LIMITATIONS ON USE OF LOAN FUNDS

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration revised its regulations which prohibits the use of loan funds to refinance debts except for interim financing. Under this revision loan funds may be used under certain circumstances, to

obtain a release of an existing lien on land needed for the site of a proposed project. This action is necessary to enable FmHA to obtain a first lien on a project being financed with loan funds.

EFFECTIVE DATE: August 11, 1977. Comments must be received on or before September 12, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, 202-447-7207.

SUPPLEMENTAL INFORMATION: Section 1822.86(b)(8) of Subpart D, Part 1822, Title 7, Code of Federal Regulations (40 FR 4278) is amended. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment is not published for proposed rulemaking since the change is needed to allow FmHA to finance needed housing projects now pending and any delay would be contrary to the public interest.

As amended, § 1822.86, paragraph (b)(8) reads as follows:

**§ 1822.86 Limitations.**

* * * * *

(b) *Limitations on use of loan funds.* Loans will not be made for:

* * * * *

(8) Refinancing debts of the applicant except:

(i) As authorized in § 1822.94 (a) or

(ii) When a nonprofit organization or a State or local public agency, applicant already owns land on which a lien has existed for more than 5 years before the date of the application, a subordination or release cannot be obtained, and the applicant does not have the financial resources necessary to obtain a release of the existing lien(s). In this situation, loan funds may be used to obtain a release of the land needed for the site of the proposed project. The amount of funds used for such purposes shall be limited to the amount necessary to obtain the release and, in any case, shall not exceed the "as is" value of the land as determined in accordance with FmHA Instruction 422.3 which is available in any FmHA office.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

NOTE.—The Farmers Home Administration 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.

Dated: July 26, 1977.

GORDON CAVANAUGH,
*Administrator, Farmers Home Administration.*

[FR Doc.77-23237 Filed 8-10-77;8:45 am]

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SUBCHAPTER R—BUSINESS SERVICES

## PART 2024—PROPERTY AND SUPPLY

### Subpart A—Procurement, Sales, and Leasing Authority

REVISION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is revising its regulation pertaining to delegations of authority for procurement contracting, purchasing, sales and leasing, space acquisition and assignment. This revision is intended to simplify the existing procurement procedure and to increase procurement authority for certain positions because of the rise in the cost of operations.

EFFECTIVE DATE: Effective on August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Albert J. Geiger, 202-447-5777.

SUPPLEMENTARY INFORMATION: Subpart A of Part 2024, Chapter XVIII of Title 7, Code of Federal Regulations (41 FR 13933) is amended. The purpose of this amendment is to update and simplify the regulation. Specifically: In Exhibit A under the National Office, the position of Deputy Director, Business Services Division, is added including dollar amount under the Agriculture Procurement Regulations authority to purchase with power to delegate again; the positions of Administrative Officer, District Director, and County Supervisor are added under paragraph 6. In Exhibit B under the National Office, the position of Deputy Director, Business Services Division, is added, including dollar amount, some position titles are changed, and in the Finance Office, increases in dollar amounts are made under services and supplies in two instances. In Exhibit C, under the National Office, the position of Deputy Director, Business Services Division, is added, and one position title is changed in the State Office. In Exhibit D under the National Office, the position of Deputy Director, Business Services Division, is added including dollar amount, and one position title is changed. Editorial changes are included. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking inasmuch as the Subpart involves only internal departmental regulations, therefore, notice and public procedure thereon are unnecessary. Accordingly, exhibits A through D of Subpart A of Part 2024 as revised, are set forth below.

EXHIBIT A—DELEGATION OF PURCHASING AUTHORITY (SMALL PURCHASES)

Using Agriculture Procurement Regulations 4-3.602-50, authority to purchase with power to delegate again is given to these positions:

| *National Office* | *Amount not to exceed* |
|---|---|
| Deputy Administrator, Financial and Administrative Operations | $10,000 |
| Director, Business Services Division | 10,000 |
| Deputy Director, Business Services Division | 10,000 |
| Authority to purchase without power to redelegate is given to: | |
| 1. National Office: | |
| Chief, Property and Procurement Management Branch | 10,000 |
| Property and Space Management Specialist | 10,000 |
| Contracting Specialist | 10,000 |
| Procurement and Supply Specialist | 10,000 |
| Director, Property Management Staff | 10,000 |
| Purchasing Agent | 5,000 |
| 2. Finance Office: | |
| Chief, Business Services Branch | 10,000 |
| Assistant Chief, Business Services Branch | 10,000 |
| Head, Space Management Section | 10,000 |
| Head, Property Management Section | 10,000 |
| 3. State Office—Puerto Rico: | |
| State Director | 2,500 |
| Administrative Officer | 2,500 |
| 4. National Training Center: | |
| Resident Manager. For emergency supplies and services for ongoing training | 75 |
| For Transportation Service | 250 |
| 5. State Director. Allowances for supplies and equipment for information programs | [1] |
| 6. State Director, Administrative Officer, District Director, County Supervisor. For emergency supplies and services not available through St. Louis, Missouri, office | 25 |
| 7. State Director; District Director; County Supervisor: | |
| Services for maintenance, management or repair of "real" or "acquired" property | 2,000 |
| Repair and replacement of parts and cleaning of electric typewriters and office machines | [2] 60 |
| 8. State Director Property Management Specialist Chief, Property Management. Services for maintenance, management and sale of acquired real property | [3] 5,000 |
| 9. Property Management Specialist Chief, Property Management. Services for maintenance management, repair, and sale of acquired real property | [4] 10,000 |

[1] Yearly $100 plus $2.50 for each fulltime county office.

[2] Maximum depending on age. (See guidelines available in any FmHA office for limitations on age of equipment.)

[3] Only for employees who have completed the Property Management Training Course.

[4] Only for employees who have completed the prescribed construction contracting courses and procedures.

This delegation replaces all others and is valid until changed or canceled.

People in these positions, or those acting for them, can use this authority.

Use Federal Procurement Regulations, Subpart 1–3.6; Agriculture Procurement Regulations, Subpart 4–3.6; and Agency regulations that apply in using this authority.

Authority to purchase will not be used for contracting of construction except for Items 7 and 9 above.

EXHIBIT B.—*Delegation of procurement contracting authority*

[Using AGPR 4-1.404, the Office of Operations has delegated procurement contracting authority, without powers to redelegate to people in these positions.]

| Amount not to Exceed— | | National office |
|---|---|---|
| Construction | Services and supplies | |
| $100,000 | $500,000 | Director, Business Services Division. |
| 100,000 | 500,000 | Deputy Director, Business Services Division. |
| 100,000 | 500,000 | Chief, Property and Procurement Management Branch. |
| 100,000 | 500,000 | Contract Specialist. |
| 100,000 | 100,000 | Director, Property Management Staff. |
| ..... | 25,000 | Property and Space Management Specialist. |
| ..... | 25,000 | Procurement and Supply Specialist. |
| | | *Finance office* |
| 25,000 | 50,000 | Chief, Business Services Branch. |
| 25,000 | 50,000 | Assistant Chief, Business Services Branch. |
| ..... | 20,000 | Head, Space Management Section. |
| ..... | 20,000 | Head, Property Management Section. |

NOTE.—Use Federal Procurement Regulations, Agriculture Procurement Regulations, Federal Property Management Regulations, Agriculture Property Management Regulations, and Agency regulations that apply in using this authority.

EXHIBIT C—DELEGATION OF SALES AUTHORITY

A. Using GSA and Departmental authorities, sale of surplus personal property is delegated without authority to redelegate to:

National Office: Director, Business Services Division; Deputy Director, Business Services Division; Chief, Property & Procurement Mgmt. Branch.

Finance Office: Chief, Business Services Branch; Asst. Chief, Business Services Branch; Head, Property Management Section.

B. Using guidelines available in any FmHA office, contracts and agreements to sell real property is delegated without authority to redelegate to:

National Office: Director, Property Management Staff; Director, Business Services Division; Deputy Director, Business Services Division.

| | |
|---|---|
| State Office: | |
| State Director | [1] $10,000 |
| Property Management Specification | [1] 10,000 |
| County Office: | |
| County Supervisor | [1] 2,000 |

[1] This limit applies to the fee paid for a single property sold. Blanket listing agreements can be made by any of the above.

EXHIBIT D—AUTHORITY TO LEASE SPACE (REAL PROPERTY

| | *Amounts not to exceed* |
|---|---|
| National Office, Washington, D.C.: | |
| Director, Business Services Division | $500,000 |
| Deputy Director, Business Services Division | 500,000 |
| Chief, Property & Procurement Mgmt. Branch | 500,000 |
| Property & Space Management Specialist | 25,000 |
| Finance Office: | |
| Chief, Business Services Branch | 25,000 |
| Assistant Chief, Business Services Branch | 25,000 |
| Head, Space Management Section | 10,000 |
| Head, Property Management Section | 10,000 |

All delegations are limited to a one year firm term lease with option to renew for four additional years in areas not controlled by GSA or subject to FPMR Part 101–17.

NOTE.—The Farmers Home Administration 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.

Dated: July 27, 1977.

GORDON CAVANAUGH,
*Administrator, Farmers Home Administration.*

[FR Doc.77-23236 Filed 8-10-77;8:45 am]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2895]

## PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

### Olin Ski Company, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Middletown, Conn. manufacturer and distributor of ski boots and other ski industry items to cease establishing, maintaining, and enforcing price maintenance agreements; requiring such agreements as a precondition to dealing; soliciting reports of recalcitrant distributors and terminating those dealerships; using serial numbers as a means of tracing products sold to unauthorized outlets; and failing to honor warranties for products sold by such establishments. Further, the order requires the respondents to maintain prescribed files for a five-year period; and prohibits them from disseminating, for two years, all materials suggesting resale prices.

DATES: Complaint and order issued, July 19, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

William M. Gibson, Director, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Rm. 1301, Boston, Mass. 02114 (617–223–6621).

SUPPLEMENTARY INFORMATION: On Monday, May 16, 1977, there was published in the FEDERAL REGISTER (42 FR 24753) a proposed consent agreement with analysis In the Matter of Olin Ski Company, Inc., et al., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions as codified under 16 CFR, are as follows:

Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers; § 13.358 Distributors. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.497 To terminate, or threaten to terminate contracts, dealings, franchises, etc. Subpart—Controlling, Unfairly, Seller-Suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–45 Maintain records. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1140 Cutting off supplies; § 13.1145 Discrimination; 13.1145–5 Against price cutters; § 13.1150 Penalties; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell; § 13.1165 Systems of espionage; 13.1165–50 Identifying marks; 13.1165–80 Requiring information of price cutting.

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

CAROL M. THOMAS,
*Secretary.*

[FR Doc.77-23129 Filed 8-10-77;8:45 am]

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

Title 50—Wildlife and Fisheries

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

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION AND IMPORTATION OF WILDLIFE AND PLANTS

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

## Determination That Seven California Channel Island Animals and Plants Are Either Endangered Species or Threatened Species

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Final rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter the Director and the Service, respectively) hereby issues a rulemaking pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act) which determines the San Clemente loggerhead shrike (*Lanius ludovicianus mearnsi*), San Clemente broom (*Lotus scoparius* (Nutt.) Ottley ssp. *traskiae* (Abrams) Raven), San Clemente bushmallow (*Malacothamnus elementinus* (M.&J.) Kearn.), San Clemente Island larkspur (*Delphinium kinkiense* Munz), and the San Clemente Island indian paintbrush (*Castilleja grisea* Dunkle) to be Endangered species, and which determines the island night lizard (*Klauberina riversiana*), and the San Clemente sage sparrow (*Amphispiza belli clementae*) to be Threatened species. The above are the first plants to be added to the U.S. List of Endangered and Threatened Wildlife and Plants.

DATES: This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884). The amendments will become effective on September 12, 1977.

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.

SUPPLEMENTARY INFORMATION:

### Background

On June 1, 1976, the Service published a proposed rulemaking in the FEDERAL REGISTER (41 FR 22073–22075) advising that sufficient evidence was on file to support a determination that seven animals endemic to San Clemente Island, California, were Endangered species as provided for by the Act, and on June 16, 1976, the Service published another proposed rulemaking in the FEDERAL REGISTER (41 FR 24523–24572) advising that sufficient evidence was on file to support a determination that more than 1700 United States plants were Endangered species as provided for by the Act. The four plants determined herein were among those proposed. These proposals summarized the factors thought to be contributing to the likelihood that these species could become extinct or become Endangered in the foreseeable future; specified the prohibitions which would be applicable if such determinations were made; and solicited comments, suggestions, objections and factual information from any interested person.

Section 4(b)(1)(A) of the Act requires that the Governor of each State, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. Accordingly, letters were sent to Governor Brown of California on July 1, 1976 (re: 41 FR 24524–24572) and on July 2, 1976 (re: 41 FR 22073–22075) notifying him of the two subject proposed rulemakings. On July 1 and 2, 1976, memoranda were sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties including scientists, interested organizations and environmental groups.

### Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a "* * * summary of all comments and recommendations received * * * be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife.

In the June 1 and June 16, 1976, FEDERAL REGISTER proposed rulemakings (41 FR 22073–22075, 41 FR 24523–24572) and the associated news releases, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

The specified 60-day public comment periods were to terminate on August 16, 1976 (for the 1700 plants) and on August 2, 1976 (for the seven San Clemente animals). All comments received prior to February 28, 1977, were considered.

### Comments on Proposed Rulemaking for Seven Animals

(41 FR 22073–22075): Letters from 14 persons were received as follows:

California State Department of Fish and Game (responding for Governor Brown), California State Department of Food and Agriculture, U.S. Navy, U.S. National Park Service, Sierra Club, Audubon Naturalist Society, Environmental Defense Fund, Pt. Reyes Bird Observatory, Dr. Dennis M. Power (Santa Barbara Natural History Museum), Dr. Philip J. Regal (University of Minnesota), Dr. H. Lee Jones (University of California, Los Angeles), Dr. Ned K. Johnson (University of California, Berkeley), Dr. Robert L. Bezy (Natural History Museum of Los Angeles County), and Mr. Robert R. Talmadge (Eureka, California).

None of the letters argued against the proposal in its entirety, and most were in favor of the proposal. Several letters were factual, but non-committal, and two presented evidence favoring the determination of some species and against the determination of others.

The State of California, as represented by the Department of Fish and Game, recommended that the San Clemente loggerhead shrike be listed as Endangered, and that none of the other six animals be listed as either Endangered or Threatened. This view supports recommendations of the U.S. Navy (see below) and presupposes that their goat removal program will be ultimately successful. The abundance of the San Clemente sage sparrow, the island night lizard, and three land snails, in concert with U.S. Navy and National Park Service resource management plans, was cited as the principal argument against their listing. The lack of any information indicative of present status was given as the chief factor for rejecting the San Clemente coenonycha beetle as a plausible candidate for listing.

The California Department of Food and Agriculture summarized knowledge of the San Clemente coenonycha beetle. They stated that at present there is inadequate knowledge of this beetle, and that field study will be required.

The U.S. Navy, as represented by the Naval Undersea Center, recommended that the San Clemente loggerhead shrike be listed a Endangered, but that the San Clemente sage sparrow, island night lizard and three land snails were not in present danger of extinction. Due to a lack of data, no opinion was expressed on the San Clemente coenoycha bettle. A detailed map of the distribution on the former six species was also provided. The Navy's recommendations were based on five considerations: (1) The current definition of Endangered species in the Act, (2) recent results of the Navy's Biological Assessment Program, (3) current ecological damage due to exotic goats, pigs, and black-tailed deer, (4) the projected removal of these animals by April 1977; and (5) no consideration was given to potential threats, such as deliberate or chance introductions of exotic species. The status of the island night lizard on other islands was not taken into consideration. The letter ended by examining the potential threats to island endemics of accidental introductions.

The National Park Service recommended that designation of Critical Habitat for the island night lizard be deferred until the National Park Service is in a position to analyze interrelationships between the lizard and several candidate mollusks and plants which also occur on Santa Barbara Island, a component of the Channel Islands National Monument. Mr. Cook made no recommendation with regard to the proposed determination of island night lizard. Critical Habitat for the island night lizard has not been proposed.

Dr. Philip J. Regal, University of Minnesota, in his letter dated September 28, 1976, pointed to recent extinctions of some life forms which were unique to San Clemente Island, and emphasized that island-adapted species are particularly prone to depredations from accidentally or intentionally introduced exotic competitors. Dr. Regal went on to emphasize the uniqueness of the island night lizard, and called attention to its vulnerability to potential introductions.

Dr. Robert L. Bezy, Natural History Museum of Los Angeles County, in a lengthy letter dated July 21, 1976, gave detailed information and comments on the proposed determination of the island night lizard. Although Dr. Bezy does not directly state whether or not he feels the species is Endangered or not, he presents a wealth of field information concerning this species. On San Clemente Island he found the lizard widespread and abundant, but stated that feral goats could seriously impact its habitat through their devegetating actions, since the island night lizard is known to be at least partially herbivorous. The introduced feral pigs and cats on the island undoubtedly feed on the lizards to some degree. On San Nicolas Island, Dr. Bezy found the island night lizard restricted, but locally common. Unfortunately, the alligator lizard (*Gerrhonotus multicarinatus*) has been found on San Nicolas Island in recent years, and Dr. Bezy feels it may be a competitive threat to the island night lizard population there. On tiny Santa Barabara Island, Dr. Bezy found the lizard's habitat limited, and the species moderately abundant at only one locality. In addition, Dr. Bezy presented data on litter size and reproductive rate which indicates a long life and slow replacement. His studies have also shown moderate morphological differentiation between the three populations.

Dr. H. Lee Jones, University of California at Los Angeles, in a letter dated September 27, 1976, commented on the current status of the San Clemente loggerhead shrike and the San Clemente sage sparrow. Dr. Jones, who had conducted intensive field studies of San Clement Island's avifauna, stated that the San Clemente sage sparrow currently numbers between 200 to 400 pairs, while the San Clemente loggerhead shrike numbers no more than 25 pairs—down from 50–75 pairs in 1973. He feels the most serious threat to the shrike is destruction of brush by goats, and that it is in danger of extinction.

Dr. Dennis M. Power, Santa Barbara Natural History Museum, who has studied Channel Island birds, feels both the shrike and sparrow to be worthy of protection.

Dr. Ned K. Johnson, University of California, Berkeley, in a letter dated August 3, 1976, who has conducted research on the California Channel Islands, stated that the San Clemente loggerhead shrike and San Clemente sage sparrow should be both listed as Endangered, and that "every effort should be made to restore their mammal-destroyed habitats."

Dr. Robert M. Stewart, Pt. Reyes Bird Observatory, provided maps showing what he felt were Critical Habitats for the San Clemente sage sparrow and San Clemente loggerhead shrike.

All three conservation organizations and one individual fully supported the proposal, but made no substantive comments.

### Comments on Proposed Rulemaking for 1700 Plants

(41 FR 24523–24572): The general comments to this proposed rulemaking will be summarized in the Federal Register with the next listing of plants.

At this time only comments from the State of California and one botanist, who commented specifically on the present status of San Clemente Island plant candidates, are considered.

The California Department of Fish and Game, in a letter dated October 15, 1976, responded to the June 16, 1976, plant proposal on behalf of Governor Brown. They stated that the State did not have the opportunity to adequately assess those taxa proposed, since the Smithsonian Institution did not disclose the information which led to their inclusion in the January 9, 1975, Smithsonian report on Endangered and Threatened U.S. plants. The State went on to express strong opposition to Federal "listing of Endangered species without making available to the States the substantiating data supporting such action." A list of California plants was appended to the letter which contained taxa determined by the California Native Plant Society to be Threatened rather than Endangered, as well as two plant taxa which satisfy neither category. No San Clemente Island plants were mentioned in the letter or the appended list.

Mr. R. Mitchel Beauchamp of National City, California, in a letter dated October 9, 1975 (prior to the proposal), commented upon the status of 23 plants native to San Clemente Island, including the four finally determined herein. *Lotus scoparius* ssp. *traskiae* is located near the cantonment area (Wilson Cove) so there may be some threat. *Malacothamnus clementinus* is now known from two widely separated localities (Lemon Tank dump and lower China Canyon). *Delphinium kinkiense* is uncommon in grasslands in spring. *Castilleja grisea* is infrequent on cliffs.

### Conclusion

*San Clemente loggerhead shrike.* All persons who commented on this bird's status felt it should be determined as Endangered as was proposed.

*San Clemente sage sparrow.* This species was proposed as Endangered. Of those who made substantive comments on its status, the State of California and the U.S. Navy's stand that the species should not be listed at all due to the existence of a management plan and an active goat removal program is rejected, since there still exists a threat which will remain until all goats are removed from the island and the sparrow's habitat begins to recover. The view that the species be determined as Endangered (as proposed) must also be rejected, since the current population of 200–400 pairs is not likely to become extinct in the foreseeable future.

*Island night lizard.* The view of the State of California and the U.S. Navy that this species be determined as neither Endangered nor Threatened due to the animal's abundance on San Clemente Island and the existence of Management Plans for San Clemente Island and Santa Barbara Islands is rejected, since the species has small populations on two of the three islands where it occurs, and the species faces a newly introduced competitor on one of those islands. In addition, the evidence that three populations are genetically divergent indicates that the species long-term survival would be enhanced by the short-term continuance of all its populations. The view that the species be determined to be Endangered (as proposed) is also rejected, since the large population on San Clemente Island is not likely to become extinct in theh foreseeable future.

*Land snails.* The view of the State of California and the U.S. Navy that the wreathed island snail, horseshoe snail, and Gabb's snail be determined as neither Endangered nor Threatened is accepted, since population levels of all three are very high and no threat to their continued survival can be demonstrated. The view that the snails be determined as Endangered (as proposed) is rejected, and these animals should no longer be considered as candidates for determination—unless a new threat to their survival is demonstrated.

*San Clemente Coenonycha beetle.* The view of the U.S. Navy and the State of California that this insect be determined as neither Endangered nor Threatened due to a lack of status information is accepted. The comments that the species be determined to be Endangered, none of which contained supporting data, is rejected. Although not finally determined at this time, the San Clemente Coenonycha beetle remains proposed until such time that an appropriate status survey has been conducted. At that time a decision will be made with regard to final determination.

*San Clemente Island plants.* The State of California's view that no California plants be determined under Federal law since the substantiating data was not made available to them is not accepted for the four San Clemente Island plants included herein, since the data upon which these plants were proposed is available in files of the California Native Plant Society, and the scientific literature.

After a thorough review and consideration of all the information available, the Director has determined that the San Clemente loggerhead shrike, San Clemente broom, San Clemente bushmallow, San Clemente Island larkspur and San Clemente Island indian paintbrush are in danger of extinction throughout all or a significant portion of their ranges and that the island night lizard and San Clemente sage sparrow are not Endangered, but Threatened as defined in Section 3 of the Act. Section 4(a) of the Act states that a species may be determined to be endangered or threatened because of any five factors. This review amplifies and substantiates the description of those factors included in the proposed rulemakings.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitat or range of all species herein determined, as they occur on San Clemente Island, is presently being modified by the browsing effect of feral goats, and the rooting of feral pigs. The recommendations of the

State of California and the U.S. Navy, as regarded the proposals of these species, were in large part dependent upon the eventual removal of all feral goats from San Clemente Island. At present the Navy's goat removal program is inactive. On Santa Barbara and San Nicolas Islands, the habitats of the island night lizard are already reduced and any future reduction would seriously imperil the lizard's populations which occur there.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to any species determined herein.

3. *Disease or predation.* In the proposal of the San Clemente loggerhead shrike, San Clemente sage sparrow, and island night lizard depredation by feral housecats on San Clemente Island was cited as probable factor affecting the populations of these animals. No direct evidence was received that the two birds have suffered from their coexistence with a large feral cat population, but the threat remains. Evidence was received that the feral cats feed on island night lizards, but whether this action is a serious factor remains unknown. It is now known that alligator lizard (*Gerrhonotus multicarinatus*) has been accidentally introduced to San Nicolas Island. This predaceous lizard may constitute a serious threat to the continued existence of the island night lizard on San Nicolas Island.

The grazing of feral goats and rooting of feral pigs must be viewed as a serious threat to the continued existence of the four Endangered San Clemente Island plants.

4. *The inadequacy of existing regulatory mechanisms.* Not applicable to any species determined herein.

5. *Other natural or manmade factors affecting their continued existence.* In the proposal of the animals, it was stated that island-adapted taxa are often detrimentally affected by accidental or intentional introduction of non-native species. On all California Channel Islands, such past introductions have had disastrous effects and that the potential of future introductions is serious is reflected by the comments of one biologist and the U.S. Navy. Competition by plants not native to San Clemente Island with the four Endangered plants herein determined must be viewed as a serious threat to their continued existence.

### Effects of the Rulemaking

The effects of this determination and this rulemaking include, but are not necessarily limited to those discussed below. Permit regulations for plants were in the June 24, 1977, Federal Register (42 FR 32373-32381). No special regulations, as provided for by Section 4(d) of the Act in the case of Threatened species, are deemed necessary or advisable for the protection of the island night lizard or the San Clemente sage sparrow. The general prohibitions and exceptions concerning the Threatened species are published in Title 50 § 17.31, of the Code of Federal Regulations which is reprinted in part as follows:

### Subpart D—Threatened Wildlife

**§ 17.31 Prohibitions.**

(a) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart, all of the provisions in § 17.21 (a) through (c)(4) shall apply to threatened wildlife.

(b) In addition to any other provisions of this Part 17; any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

The above regulations refer to § 17.21 of Title 50 which is reprinted below.

### Subpart C—Endangered Wildlife

**§ 17.21 Prohibitions.**

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

"(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days."

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered widlife which was taken in violation of paragraph (c) of this section.

*Example.* A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph(d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

EFFECT ON FEDERAL AGENCIES

The determination set forth in this rulemaking makes these species eligible for the provisions of Section 7 of the Act which reads as follows:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of conservation of endangered species and threatened species listed pursuant to Section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no Critical Habitat yet has been determined for these species, the other provisions of Section 7 are applicable. The Service now is collecting data relative to preparing a proposed determination of Critical Habitat for some of these species, and all persons with pertinent information are invited to send the same to the Director.

NATIONAL ENVIRONMENTAL POLICY ACT

Two environmental assessments have been prepared and are on file in the Service's Washington Office of Endangered Species. They address this action as it involves the seven Channel Island species. These assessments are the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This final rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. Paul A. Opler, Office of Endangered Species (202/343–7814).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: May 27, 1977.

LYNN A. GREENWALT,
*Director, Fish and Wildlife Service.*

Accordingly, Part 17, Subpart B, § 17.11 and § 17.12, Title 50 of the Code of Federal Regulations, are amended as set forth below:

In § 17.11 add the following:

**§ 17.11 Endangered and threatened wildlife.**

| Species | | | Range | | Status | When listed | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | Population | Known distribution | Portion of range where threatened or endangered | | | |
| • | • | • | • | • | | | • |
| Shrike, San Clemente loggerhead | *Lanius ludovicianus mearnsi* | NA | U.S.A. (California) | Entire | E | 26 | NA |
| Sparrow, San Clemente sage | *Amphispiza belli clementae* | NA | do | do | T | 26 | NA |
| Lizard, island night | *Klauberina riversiana* | NA | do | do | T | 26 | NA |
| • | • | • | • | • | | | • |

**§ 17.12 Endangered and threatened plants.**

In § 17.12 initiate a new list with the following:

| Species | | Range | | Status | When listed | Special rules |
|---|---|---|---|---|---|---|
| Scientific name | Common name | Known distribution | Portion of range where threatened or endangered | | | |
| Fabaceae, Pea family: *Lotus scoparius* ssp. *traskiae*. | San Clemente Broom | U.S.A. (California) | Entire | E | 26 | NA |
| Malvaceae, Mallow family: *Malacothamnus clementinus*. | San Clemente Island Bushmallow | do | do | E | 26 | NA |
| Ranunculaceae, Buttercup family: *Delphinium kinkiense*. | San Clemente Island Larkspur | do | do | E | 26 | NA |
| Scrophulariaceae, Snapdragon family: *Castilleja grisea*. | San Clemente Island Indian Paintbrush | do | do | E | 26 | NA |

[FR Doc.77-23094 Filed 8-10-77;8:45 am]

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

### Determination of Critical Habitat for Six Endangered Species

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Final rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a rulemaking which determines Critical Habitat for the Florida Everglade kite (*Rostrhamus sociabilis plumbeus*), American peregrine falcon (*Falco peregrinus anatum*), palila (*Psittirostra bailleui*), dusky seaside sparrow (*Ammospiza maritima nigrescens*), Cape Sable sparrow (*Ammospiza maritima mirabilis*), and Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*). This rulemaking is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act). In accordance with Section 7, all Federal agencies will be required to insure that actions authorized, funded, or carried out by them do not adversely affect these Critical Habitats.

EFFECTIVE DATE: Immediately.

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.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In the FEDERAL REGISTER of July 14, 1976 (41 FR 28978–28979), the Service proposed the determination of Critical Habitat for the Endangered Cape Sable sparrow, a small bird of southern Florida. In the FEDERAL REGISTER of August 30, 1976 (41 FR 35616–35618), the Service proposed the determination of Critical Habitat for the Endangered American peregrine falcon, in a portion of its range in northern California, and for the Endangered Morro Bay kangaroo rat, a small rodent found along part of the California coast. In the FEDERAL REGISTER of December 3, 1976 (41 FR 53074–53075), the Service proposed the determination of Critical Habitat for two Endangered Florida birds, the Florida Everglade kite and dusky seaside sparrow. In the FEDERAL REGISTER of December 22, 1976 (41 FR 55729–55732), the Service proposed the determination of Critical Habitat for the Endangered palila, a small bird of the Hawaiian Honeycreeper Family.

SUMMARY OF COMMENTS

The Critical Habitat proposal for the peregrine falcon was supported in its entirety by the California Department of Fish and Game, Napa County Board of Supervisors, Sierra Club, Southwest Regional Representative of the Wilderness Society, Ecology Center of Southern California, and two private citizens. The Federal Power Commission said that its responsibilities would not be significantly affected by the proposal.

The Area Geothermal Supervisor of the U.S. Geological Survey at Menlo Park, California suggested that closely supervised geothermal operations would cause minimal disturbance to the peregrine in the areas involved. AMAX, Inc. of Denver indicated that it would not be necessary to have such large zones restricted to human utilization. These comments may reflect an incomplete understanding of the proposal. No particular activity is automatically prohibited in the Critical Habitat areas. Each individual action that may be of concern would be evaluated on its own merits with respect to the welfare of the peregrine.

The U.S. Energy Research and Development Administration, California State Lands Commission, Aminoil USA, Magma Power Company, Pacific Gas and Electric Company, and Dr. Kenneth E. Stager of the Los Angeles County Museum of Natural History wrote in opposition to designation of one of the proposed Critical Habitat areas, the Cobb Mountain Zone. Extensive research by Dr. Stager and other workers indicates that there is only one report of nesting in this zone. This report was made in 1936 and now is considered questionable. Therefore, determination of the Cobb Mountain Zone as Critical Habitat is not being made at this time, but the Service would be prepared to make such a determination at any time it is warranted by appropriate data.

On the basis of field studies, the California State Director of the U.S. Bureau of Land Management recommended that the proposed Palisades-Table Rock Critical Habitat zone be enlarged by adding the following areas: T9N R6W S½ Sec. 3, S½ Sec. 4, Sec. 10, S½ Sec. 11, N½ Sec. 14, N½ Sec. 15. The Service now has this recommendation under consideration.

The Critical Habitat proposal for the Cape Sable sparrow was supported in writing by three private citizens. The Environmental Defense Fund, New York Zoological Society, and Smithsonian Institution also supported the proposal, but suggested that it might be too restrictive or that other measures also would be needed for the conservation of the species. The Florida Audubon Society called for the addition of the following areas as Critical Habitat: T57S R37E Sec. 9, 10, 15–18. As acknowledged by the Audubon Society, however, these areas are not now known to be used by the sparrow, and the Service is not including them in the present rulemaking. The U.S. Army Corps of Engineers noted that the proposal could affect portions of the Central and Southern Florida Flood Control Project, but did not indicate opposition.

The National Park Service recommended that the following areas be added to the proposed designation: T57S R36½E, T58½S R35E, and T58½S R36½E in Everglades National Park; and T56S R37E Sec. 25, 26, T58S R38E Sec. 27, and T59S R38E Sec. 4 outside of the Park. The Park Service also recommended deletion of the following areas from the proposal: T55S R37E Sec. 25, T55S R38E Sec. 19, 20, 29, 30. The Service has evaluated these recommendations and is making the additions and deletions in this rulemaking.

The Critical Habitat proposal for the Morro Bay kangaroo rat was supported by the California Department of Fish and Game and the Ecology Center of Southern California. No comments expressing opposition were received.

The Florida Game and Fresh Water Fish Commission, the National Audubon Society, the Tropical Audubon Society, the Audubon Society of the Everglades, the Florida Audubon Society, and two private citizens wrote in support of the proposed Critical Habitat for both the Florida Everglade kite and dusky seaside sparrow. The National Park Service recommended no designation of Critical Habitat in Everglades National Park, because the area was not now regularly utilized by the kite. Fish and Wildlife Service biologists, however, consider that even the limited use of this area is of importance to such a scarce bird, and that the Park is of potential great value to an expanding kite population. The Central and Southern Florida Flood Control District suggested that the Critical Habitat designation be expanded to include those portions of Water Conservation Area 3 bounded by Florida State Highway 84 on the south, U.S. Highway 27 on the east, Levees L–5 and L–4 on the north, and L–28 on the west; and Conservation Area 3B bounded by L–30 on the east, L–29 on the south, L–67C on the northwest, and the Miami Canal on the northeast. The Service now has these recommendations under consideration. Two other parties, the Royal Palm Audubon Society and the Palm Beach County Executive Committee of the Sierra Club, wrote to support Critical Habitat designation for the Florida Everglade kite. And two additional parties, the Indian River Audubon Society and the Conservation Alliance of St. Lucie County, wrote to support Critical Habitat designation for the dusky seaside sparrow.

Letters in support of the proposed designation of Critical Habitat for the palila were received from the Governor of Hawaii, the State Forester of Hawaii, the U.S. Forest Service, the Golden Gate Audubon Society, and three other parties. The New York Zoological Society also supported the designation, but suggested that the area in question be more precisely described. The International Council for Bird Preservation recommended that the Critical Habitat area be enlarged to include former portions of the range of the palila, where the species might be restored under proper management. The Service would be prepared to propose designation of such areas when warranted by appropriate data. Professor Sheila Conant of the University of Hawaii recommended specification of an upper elevation limit for the Critical Habitat zone. Although the background section of the Service's proposal did indicate that the Critical Habitat zone extended to 10,000 feet, and it was the Service's intention to delineate only the area below that elevation, the legal designation contained no reference to such a limit. This problem has been dealt with in the final rulemaking.

BASIS FOR DETERMINATION

All of the areas delineated below are considered Critical Habitat because they contain constituent elements essential to the survival or recovery of one of the species in question. Specifically for the American peregrine falcon, the delineated areas have been utilized extensively by the species within the last few years, and all contain many excellent nesting sites. These areas also have or are adjacent to high concentrations of passerine birds, taken as prey by the falcons. The named zones referred to below were so designated for convenience by field personnel. It is emphasized that these areas represent only small segments of what may be the overall Critical Habitat of the American peregrine falcon in the United States, and that additional areas may be proposed for designation in the near future.

With regard to the Cape Sable sparrow, the areas delineated below contain the largest known concentration of the species in the United States, and are the only known areas that currently can be said to support a major viable population. The prairie vegetation of these areas appears necessary for the survival of the species. Additional information regarding the present or future distribution of the sparrow could lead to proposed modification of the Critical Habitat delineation.

With respect to the Morro Bay kangaroo rat, the area delineated below contains a significant population of the species within an overall biotic community that still exists in a relatively natural state. Studies by the California Department of Fish and Game have found that this area contains all the elements required for the survival of the Morro Bay kangaroo rat, and that those elements stand a good chance of being maintained if the area can be properly protected. Additions or modifications to the designated area may be proposed in the future.

With respect to the Florida Everglade kite, the areas delineated below contain the best and largest remaining stretches of suitable habitat for the species. Those areas support substantial numbers of apple snails (*Pomacea paludosa*) upon which the kites depend for food. The snails, in turn, are dependent on maintenance of water levels in the marshes. The delinated areas have suitable water levels or have good potential for being managed for maximum snail production.

With respect to the dusky seaside sparrow, the areas delineated below contain the world's entire population of the species. These areas are covered predominantly by open expanses of moist cordgrass (*Spartina bakerii*) savannas, about 10 to 15 feet above mean sea level. The sparrow seems to be fully adapted to this restricted habitat with its high salinity aspects.

The palila depends on the area delineated below for food, shelter, and nesting sites; it cannot survive without the mamane and naio trees found therein. Moreover, the delineated area apparently contains the world's entire known population of palila, and supports most of the large and intermediate-sized mamane and naio trees on Mauna Kea. This area is large enough to allow space for the population to expand, and includes a full range of altitudinal and geographical sites needed by the palila for normal life cycle movement. Such movement is the response of the species to shifting seasonal and annual patterns of flowering, seed set, and ensuing pod development of the mamane vegetation.

EFFECTS OF THE RULEMAKING

The effects of Critical Habitat determination involve primarily Federal agencies. In accordance with Section 7 of the Act, such agencies, and only such agencies, are required to insure that actions authorized, funded, or carried out by them do not adversely affect the Critical Habitat of Endangered or Threatened species. The designation of Critical Habitat for the Florida Everglade kite, American peregrine falcon, palila, dusky seaside sparrow, Cape Sable sparrow, and Morro Bay kangaroo rat, as delineated below, points out areas where this responsibility will apply. This designation does not automatically prohibit any particular action, and it is likely that many kinds of Federal actions involving the areas in question would not be expected to be detrimental to these species.

REORGANIZATION OF REGULATIONS

It was also proposed in the FEDERAL REGISTER of December 22, 1976 (41 FR 55730) to reorganize the location of the list of Critical Habitat designations. Until now, each Critical Habitat determination has been assigned a separate section number in Subpart F of Part 17. Starting with the Critical Habitat designation for the snail darter at § 17.61, sequential numbers have been assigned for the Critical Habitats of the American crocodile (§ 17.62), the California condor (§ 17.64), the Indiana bat (§ 17.65) and the Florida manatee (§ 17.66). In addition, the Critical Habitat designation of the yellow-shouldered blackbird was assigned § 17.87. This procedural method has been inefficient because of the rapid consumption of available section numbers in Subpart F. Therefore, this rulemaking deletes the present Subpart F, "Critical Habitat," and adds a new Subpart I, "Interagency Cooperation." Within the new Subpart I, all Critical Habitat designations for fish and wildlife will be listed under § 17.95. The proposed use of §§ 17.91 through 17.94 was set forth in the FEDERAL REGISTER of January 26, 1977 (42 FR 4868–4872). The following sequence will be utilized in § 17.95: § 17.95(a)—mammals; § 17.95(b)—birds; § 17.95(c)—reptiles; § 17.95(d)—amphibians (reserved); § 17.95(e)—fishes; § 17.95(f)—clams (reserved); § 17.95(g)—snails (reserved); § 17.95(h)—crustaceans (reserved); § 17.95(i)—insects (reserved); § 17.95(j)—other (reserved). Critical Habitat designations for plants will be located at § 17.96.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Office of Endangered Species in Washington, D.C. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions that would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

FINAL RULEMAKING

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the Florida Everglade kite, American peregrine falcon, palila, dusky seaside sparrow, Cape Sable sparrow, and Morro Bay kangaroo rat. The Director also has considered other information received by the Service, both prior to and subsequent to the publication of the proposed Critical Habitat determinations in the FEDERAL REGISTERS of July 14, 1976; August 30, 1976; December 3, 1976; and December 22, 1976. Based on this review, the areas delineated below are determined to be Critical Habitat for the species indicated.

This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. Ronald M. Nowak, Office of Endangered Species.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: August 3, 1977.

LYNN A. GREENWALT,
*Director, Fish and Wildlife Service.*

Accordingly, 50 CFR Part 17 is hereby amended:

1. By deleting the old title of subpart F of Part 17, "critical habitat", and all parts of subpart F not covered by the final rulemaking of June 24, 1977 (42 FR 32373); by adding a new Table of Sections for Subpart I; and by adding a new Subpart I of Part 17 to read as follows:

**Subpart F—Critical Habitat**

Sec.
17.60–17.66 [Deleted]

**Subpart I—Interagency Cooperation**

17.90–17.94 [Reserved]
17.95 Critical habitat—fish and wildlife.
17.96 Critical habitat—plants. [Reserved]

AUTHORITY: Sec. 7, Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

**Subpart F—Critical Habitat**

§§ 17.60–17.66 [Deleted]

**Subpart I—Interagency Cooperation**

§§ 17.90—17.94 [Reserved]

§ 17.95 Critical habitat—fish and wildlife.

The following areas (exclusive of those existing manmade structures or settlements which are not necessary to the normal needs or survival of the species) are Critical Habitat for the species indicated. Pursuant to Section 7 of the Act, all Federal agencies must insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of these areas:

(a) *Mammals.*

INDIANA BAT (*Myotis sodalis*)

Illinois. The Blackball Mine, La Salle County.

Indiana. Big Wyandotte Cave, Crawford County; Ray's Cave, Greene County.

Kentucky. Bat Cave, Carter County; Coach Cave, Edmonson County.

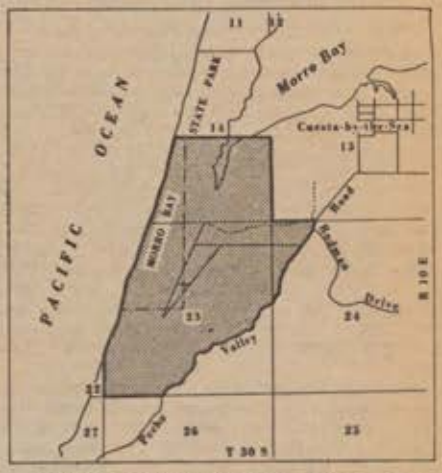
Missouri. Cave 021, Crawford County; Cave 009, Franklin County; Cave 017, Franklin County; Pilot Knob Mine, Iron County; Bat Cave, Shannon County; Cave 029, Washington County (numbers assigned by Division of Ecological Services, U.S. Fish and Wildlife Service, Region 6).

Tennessee. White Oak Blowhole Cave, Blount County.

West Virginia. Hellhole Cave, Pendleton County.

MORRO BAY KANGAROO RAT (*Dipodomys heermanni morroensis*)

California. An area of land, water, and airspace in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R10E S½ Sec. 14, those portions of Sec. 23–24 west of Pecho Valley Road.




CRITICAL HABITAT FOR THE MORRO BAY KANGAROO RAT

FLORIDA MANATEE (*Trichechus manatus*)

Florida. Crystal River and its headwaters known as King's Bay, Citrus County; the Little Manatee River downstream from the U.S. Highway 301 bridge, Hillsborough County; the Manatee River downstream from the Lake Manatee Dam, Manatee County; the Myakka River downstream from Myakka River State Park, Sarasota and Charlotte Counties; the Peace River downstream from the Florida State Highway 760 bridge, De

Soto and Charlotte Counties; Charlotte Harbor north of the Charlotte-Lee county line, Charlotte County; Caloosahatchee River downstream from the Florida State Highway 31 bridge, Lee County; all U.S. territorial waters adjoining the coast and islands of Lee County; all U.S. territorial waters adjoining the coast and islands and all connected bays, estuaries, and rivers from Gordon's Pass, near Naples, Collier County, southward to and including Whitewater Bay, Monroe County; all waters of Card, Barnes, Blackwater, Little Blackwater, Manatee, and Buttonwood sounds between Key Largo, Monroe County, and the mainland of Dade County; Biscayne Bay, and all adjoining and connected lakes, rivers, canals, and waterways from the southern tip of Key Biscayne northward to and including Maule Lake, Dade County; all of Lake Worth, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway A1A southward to its southernmost point immediately north of the town of Boynton Beach, Palm Beach County; the Loxahatchee River and its headwaters, Martin and West Palm Beach Counties; that section of the intracoastal waterway from the town of Sewalls Point, Martin County to Jupiter Inlet, Palm Beach County; the entire inland section of water known as the Indian River, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway 3, Volusia County, southward to its southernmost point near the town of Seawalls Point, Martin County, and the entire inland section of water known as the Banana River and all waterways between Indian and Banana rivers, Brevard County; the St. Johns River including Lake George, and including Blue Springs and Silver Glen Springs from their points of origin to their confluences with the St. Johns River; that section of the Intracoastal Waterway from its confluence with the St. Marys River on the Georgia-Florida border to the Florida State Highway A1A bridge south of Coastal City, Nassau and Duval Counties.

(b) *Birds.*

CALIFORNIA CONDOR
(*Gymnogyps californianus*)

California. Sespe-Piru Condor Area: an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Los Angeles Counties, with the following components (San Bernardino Meridian): Sespe Condor Sanctuary, as delineated by Public Land Order 695 (January 1951); T4N R20W Sec. 2, 5–10, N½ Sec. 11; T4N R21W Sec. 1–3, 10–12, N¼ Sec. 13, N¼ Sec. 14, N¼ Sec. 15; T5N R18W Sec. 4–9, 18, 19, 30, 31, N½ Sec. 3, N½ Sec. 17; T5N R21W Sec. 1–4, 9–16, 21–28, 33–36; T6N R18W Sec. 7–11, 14–23, 26–35; T6N R19W Sec. 7–36; T6N R20W Sec. 8–36; T6N R21W Sec. 13–36; T6N R22W Sec. 3–26, 35, 36; T6N R23W Sec. 1–3, 10–14, 24, N½ Sec. 23; T7N R22W Sec. 31; T7N R23W Sec. 34–36.

Matilija Condor Area: An area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Santa Barbara Counties, with the following components (San Bernardino Meridian): T5N R24W W½ Sec. 3, Sec. 4–11, 14, 15, N½ Sec. 16, N¼ Sec. 17; T5N R25W E½ Sec. 1, NE¼ Sec. 12; T5½N R24W Sec. 31–34; T6N R24W S½ Sec. 32, S½ Sec. 33, S¼ Sec. 34.

Sisquoc-San Rafael Condor Area: An area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, Santa Barbara County, with the following components (San Bernardino Meridian): T6N R26W Sec. 5, 6; T6N R27W Sec. 1, 2; T7N R26W Sec. 5–8, 17–20, 29–32; T7N R27W Sec. 1–14, 23–26, 35, 36; T7N R28W Sec. 1, 2, 11, 12; T8N R26W Sec. 19–22, 27–34; T8N R27W Sec. 19–36.

Hi Mountain-Beartrap Condor Areas: Areas of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R16E Sec. 13, 14, 23–26, SE¼ Sec. 11, S½ Sec. 12; T30S R17E Sec. 17–20, 29, 30; T31S R14E Sec. 1, 2, 11, 12, E½ Sec. 3, E½ Sec. 10, N½ Sec. 14, N½ Sec. 13; T31S R15E W½ Sec. 6, W½ Sec. 7, NW¼ Sec. 18.

Mt. Pinos Condor Area: An area of land, water, and airspace in Ventura and Kern Counties, with the following components (San Bernardino Meridian): T8N R21W W½ Sec. 5, Sec. 6 N½ Sec. 7, NW¼ Sec. 8; T8N R22W Sec. 1, 2, E½ Sec. 3, NE¼ Sec. 10, N½ Sec. 11, N½ Sec. 12; T9N R21W Sec. 31, 32, W½ Sec. 33; T9N R22W E½ Sec. 35, Sec. 36.

Blue Ridge Condor Area: An area of land, water, and airspace in Tulare County, with the following components (Mt. Diablo Meridian): T19S R29E Sec. 5–9, 15–22, 27–30.

Tejon Ranch: An area of land, water, and airspace in Kern County, with the following components (San Bernardino Meridian): R16W T10N, R17W T10N, R17W T11N, R18W T9N, R18W T10N, R19W T10N.

Kern County rangelands: An area of land, water, and airspace in Kern County between California State Highway 65 and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R29E T25S, R29E T26S, R30E T25S, R30E T26S.

Tulare County rangelands: An area of land, water, and airspace in Tulare County between California State Highway 65, State Highway 198, and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R28E T18S (all sections); R28E T19S (all sections); R28E T20S (all sections); R28E T21S Sec. 1–18; R29E T20S (all sections); R29E T21S Sec. 1–18.

FLORIDA EVERGLADE KITE (*Rostrhamus sociabilis plumbeus*)

Florida. Areas of land (predominantly marsh), water, and airspace, with the following components (Tallahassee Meridian): (1) St. Johns Reservoir, Indian River County: T33S R37E SW¼ Sec. 6, W½ Sec. 7, Sec. 18, Sec. 19; (2) Cloud Lake Reservoir, St. Lucie County: T34S R38E S½ Sec. 16, N½ Sec. 21; (3) Strazzulla Reservoir, St. Lucie County: T34S R38E SW¼ Sec. 21; (4) western parts of Lake Okeechobee, Glades and Hendry Counties, extending along the western shore to the east of the levee system and the undiked high ground at Fisheating Creek, and from the Hurricane Gate at Clewiston northward to the mouth of the Kissimmee River, including all the *Eleocharis* flats of Moonshine Bay, Monkey Box, and Observation Shoal, but excluding the open water north and west of the northern tip of Observation Shoal, north of Monkey Box, and east of Fisheating Bay; (5) Loxahatchee National Wildlife Refuge (Central and Southern Florida Flood Control District Water Conservation Area 1), Palm Beach County, including Refuge Management Compartments A, B, C, and D, and all of the main portion of the Refuge as bounded by Levees L-7, L-39, and L-40; (6) Central and Southern Florida Flood Control District Water Conservation Area 2A, Palm Beach and Broward Counties, as bounded by Levees L-6, L-35B, L-36, L-38, and L-39; (7) Central and Southern Florida Flood Control District Water Conservation Area 2B, Broward County, as bounded by Levees L-35, L-35B, L-36, and L-38; (8) Central and Southern Florida Flood Control District Water Conservation Area 3A, Broward and Dade Counties, as bounded by Florida Highway 84, Levees L-68A, L-67A (north of Miami Canal), L-67C (south of Miami Canal), L-29, and L-28, and a line along the undiked northwestern portion of the Area; (9) that portion of Everglades National Park, Dade County, within the following boundary: beginning at the point where the Park boundary meets Florida Highway 94 in T54S R35E Sec. 20, thence eastward and southwest along the Park boundary to the southwest corner of Sec. 31 in T7S R37E, thence southwestward along a straight line to the southwest corner of Sec. 2 in T58S R35E, thence westward along the south sides of Sec. 3, 4, 5, and 6 in T58S R35E to the Dade-Monroe county line, thence northward along the Dade-Monroe county line to the Park boundary, thence eastward and northward along the Park boundary to the point of beginning.

CRITICAL HABITAT FOR THE FLORIDA EVERGLADE KITE

AMERICAN PEREGRINE FALCON
(*Falso peregrinus anatum*)

California. Dry Creek Zone: areas of land, water, and airspace in Sonoma County, with the following components (Mt. Diablo Base Meridian): (1) T10N R11W W½ of SW¼ Sec. 6, W½ of NW¼ Sec. 6, NW¼ of NW¼ Sec. 7; T10N R12W Sec. 1, E½ of NE¼ Sec. 2, SW¼ of NE¼ Sec. 2, SE¼ Sec. 2, E½ of SW¼ Sec. 2, SE¼ of NW¼ Sec. 2, N½ of NE¼ Sec. 11, NE¼ of NW¼ Sec. 11, N½ of NE¼ Sec. 12, N½ of NW¼ Sec. 12; T11N R11W SW¼ of SE¼ Sec. 31, S½ of SW¼ Sec. 31; T11N R12W SE½ of SE¼ Sec. 36, SE¼ of SW¼ Sec. 36; (2) T10N R11W NW¼ of SW¼ Sec. 1, W½ of NW¼ Sec. 1, N½ Sec. 2, N½ of SE¼ Sec. 2, N½ of SW¼ Sec. 2, N½ Sec. 3, N½ of SE¼ Sec. 3, N½ of SW¼ Sec. 3, NE¼ Sec. 4, N½ of

SE¼ Sec. 4, NE¼ of SW¼ Sec. 4, E½ of NW¼ Sec. 4; T11N R11W E½ of SE¼ Sec. 33, S½ Sec. 34, S½ Sec. 35, W½ of SE¼ Sec. 36, SW¼ Sec. 36; (3) T11N R12W S½ Sec. 19, Sec. 30; T11N R13W SE¼ Sec. 24, E½ of SW¼ Sec. 24, E½ Sec. 25, E½ of SW¼ Sec. 25, E½ of NW¼ Sec. 25.

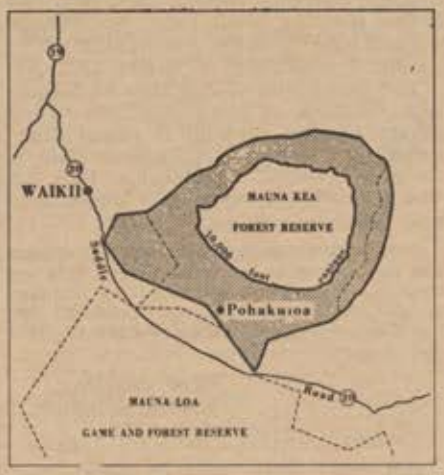
Palisades-Table Rock Zone: an area of land, water, and airspace in Napa County, with the following components (Mt. Diablo Base Meridian): T9N R6W S½ Sec. 5, S½ Sec. 6, Sec. 7, Sec. 8, Sec. 9, Sec. 16, Sec. 17, Sec. 18, Sec. 19, Sec. 20; T9N R7W E½ Sec. 12, E½ Sec. 13, NE¼ Sec. 24, E½ of SE¼ Sec. 24.

Mount St. Helena Zone: An area of land, water, and airspace in Lake, Napa, and Sonoma counties, with the following components (Mt. Diablo Base Meridian): T9N R7W W½ of NE¼ Sec. 3, W½ of SE¼ Sec. 3, W½ Sec. 3, Sec. 4, E½ Sec. 5, E½ of SW¼ Sec. 5, E½ of NW¼ Sec. 5; T10N R7W that portion of Sec. 20 east of Ida Clayton Road, Sec. 21, W½ of NE¼ Sec. 22, W½ of SE¼ Sec. 22, W½ Sec. 22, W½ of NE¼ Sec. 27, W½ of SE¼ Sec. 27, W½ Sec. 27, Sec. 28, that portion of Sec. 29 east of Ida Clayton Road, that portion of the NE¼ Sec. 32 east and south of Ida Clayton Road, SE¼ Sec. 32, E½ of SW¼ Sec. 32, that portion of the SE¼ of NW¼ Sec. 32 south of the Ida Clayton Road, Sec. 33, W½ of NE¼ Sec. 34, W½ of SE¼ Sec. 34, W½ Sec. 34.

CRITICAL HABITAT FOR THE AMERICAN PEREGRINE FALCON

PALILA (*Psittirostra bailleui*)

HAWAII. An area of land, water, and airspace on the Island of Hawaii, Hawaii County, with the following components: (1) The State of Hawaii Mauna Kea Forest Reserve, except (a) that portion above the 10,000 foot contour line, (b) that portion south of the Saddle Road (State Highway 20), (c) lands owned by the United States in the Pohakuloa Training Area north of the Saddle Road (State Highway 20) established by Executive Order 1719 (Parcel 6, State of Hawaii Tax Map Key 4–4–16, Third Division), (d) that portion (Parcel 10, Kaohe IV, State of Hawaii Tax Map Key 4–4–16, Third Division) lying north of the Saddle Road (State Highway 20) and south of the Power Line Road; (2) that portion of the State of Hawaii Kaohe Game Management Area (Parcel 4, State of Hawaii Tax Map Key 4–4–15, Third Division) to the north and east of the Saddle Road (State Highway 20); (3) that portion of the Upper Waikii Paddock (Parcel 2, State of Hawaii Tax Map Key 4–4–15, Third Division) northeast of the Saddle Road (State Highway 20); (4) that portion of the lands of Humuula between Puu Kahinahina and Kole lying southeast of the Mauna Kea Forest Reserve fence (portions of Parcels 2, 3, and 7, State of Hawaii Tax Map Key 3–8–1, Third Division) which are included in the State conservation district.



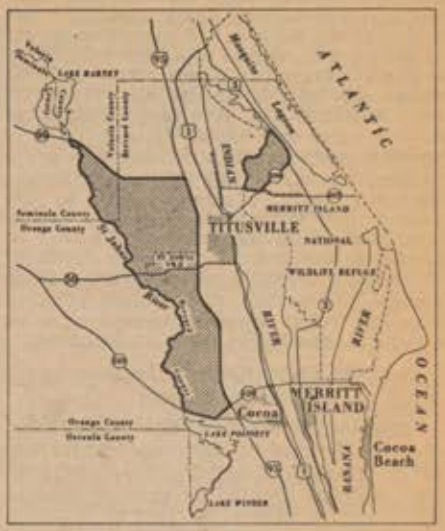

CRITICAL HABITAT FOR THE PALILA

YELLOW-SHOULDERED BLACKBIRD (*Agelaius xanthomus*)

Puerto Rico. Areas of land, water, and airspace with the following components: (1) All of Mona Island; (2) that portion of the main island of Puerto Rico within the following boundary: Beginning at a point where the Quebrada Boqueron joins the Bahia de Boqueron, thence proceeding southwesterly along the coast to Cabo Rojo, thence eastward along the coast, including offshore cays, to the point where Highway 332 meets the Bahia de Guanica, thence northward on Highway 332 to its junction with Highway 116, thence westward on Highway 116 to its junction with Highway 305, thence westward on Highway 305 to its junction with Highway 303, thence northward on Highway 303 to its junction with Highway 101, thence westward on Highway 101 to the point where it crosses Quebrada Boqueron, thence along the Quebrada Boqueron to the point where it joints the Bahia de Boqueron; (3) a circular portion of the main island of Puerto Rico with a one mile radius, the center being the junction of Highways 330 and 102 in the town of San German; (4) Roosevelt Roads Naval Station, southeast of Ceiba.

DUSKY SEASIDE SPARROW (*Ammospiza maritima nigrescens*)

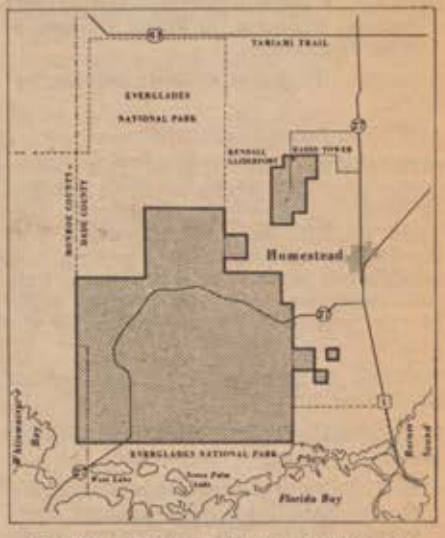
Florida. Cordgrass (*Spartina bakerii*) savannas and associated land, water, and airspace within the following boundary, Brevard County: Beginning at the point where Florida Highway 528 intersects Interstate Highway 95; thence westward along Florida Highways 528 and 520 to the main channel of the St. Johns River; thence northward along said channel to Florida Highway 46; thence eastward along Florida Highway 46 to Interstate Highway 95; thence southward along Interstate Highway 95 to the point of beginning. Marshes and associated airspace within the mosquito control impoundments designated by the Brevard County Mosquito Control District as T-10-J and T-10-K, northwest of Florida Highway 406 on the Merritt Island National Wildlife Refuge, Brevard County.




CRITICAL HABITAT FOR THE DUSKY SEASIDE SPARROW

CAPE SABLE SPARROW (*Ammospiza maritima mirabilis*)

Florida. Areas of land, water, and airspace in the Taylor Slough vicinity of Collier, Dade, and Monroe counties, with the following components (Tallahassee Meridian): Those portions of Everglades National Park within T57S R36E, T57S, R36½E, T57S R37E, T58S R35E, T58S R36E, T58S R37E, T58½S R35E, T58½S R36½E, T59S R35E, T59S, R36E, T59S R37E. Areas outside of Everglades National Park within T55S R37E Sec. 36; T56S R38E Sec. 31, 32; T56S R37E Sec. 1, 2, 11–14, 23–26; T56S R38E Sec. 5–7, 18, 19; T57S R37E Sec. 5–8, T58S R38E Sec. 27, 29–32; T59S R38E Sec. 4.




CRITICAL HABITAT FOR THE CAPE SABLE SPARROW

(c) *Reptiles.*

AMERICAN CROCODILE (*Crocodylus acutus*)

Florida. All land and water within the following boundary: Beginning at the easternmost tip of Turkey Point, Dade

County, on the coast of Biscayne Bay; thence southeastward along a straight line to Christmas Point at the southernmost tip of Elliott Key; thence southwestward along a line following the shores of the Atlantic Ocean side of Old Rhodes Key, Palo Alto Key, Anglefish Key, Key Largo, Plantation Key, Windley Key, Upper Matecumbe Key, Lower Matecumbe Key, and Long Key, to the westernmost tip of Long Key; thence northwestward along a straight line to the westernmost tip of Middle Cape; thence northward along the shore of the Gulf of Mexico to the north side of the mouth of Little Sable Creek; thence eastward along a straight line to the northernmost point of Nine-Mile Pond; thence northeastward along a straight line to the point of beginning.

ST. CROIX GROUND LIZARD
*(Ameiva polops)*

U.S. Virgin Islands. Protestant Cay, roughly defined by the coordinates 64° 42'15" N. and 17°45'7.5" W.; and Green Cay, roughly defined by the coordinates 67°37'30" N. and 17°46'15" W.

(d) [Reserved]

(e) *Fishes.*

SNAIL DARTER (*Percina tanasi*)

Tennessee. From river mile 0.5 to river mile 17 of the Little Tennessee River, Loudon County, as shown on a map entitled "Tellico Project," prepared by Tennessee Valley Authority, Bureau of Water Control Planning, August 1965 (map 65-MS-453 K 501).

(f)—(j) [Reserved]

**§ 17.96 Critical habitat—plants [Reserved]**

[FR Doc.77-23036 Filed 8-10-77;8:45 am]

## PART 32—HUNTING

**Opening of Seedskadee National Wildlife Refuge, Wyoming, to Public Hunting of Mourning Dove**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Mourning Dove on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyoming 83101 Area Code 307-877-6334.

SUPPLEMENTARY INFORMATION:

**§ 32.12 Special Regulations; migratory game birds; for individual wildlife refuge areas.**

Public hunting of Mourning Dove is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyoming 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Mourning Dove.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

H. J. JOHNSON,
*Refuge Manager.*

AUGUST 2, 1977.

[FR Doc.77-23244 Filed 8-10-77;8:45 am]

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77-SW-17]

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

**Alteration of Transition Area, Killeen, Tex.**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Killeen, Tex., transition area to provide controlled airspace for aircraft utilizing the STARN RBN in the execution of an ILS or NDB instrument approach procedure to Gray AAF.

EFFECTIVE DATE: October 6, 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, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Killeen, Tex., transition area.

On May 23, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 26217) stating that the Federal Aviation Administration proposed to alter the Killeen, Tex., transition area due to installation of the STARN RBN on the localizer course of the ILS to Runway 15 at the Army Air Field where it serves a dual purpose of providing the compass locater at the ILS outer marker and an NDB approach capability to the runway. Alteration of the transition area would be required to provide controlled airspace for aircraft executing an ILS or NDB instrument approach to Runway 15.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

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, pursuant to the authority delegated to me by the Administrator Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 G.m.t., October 6, 1977, as hereinafter set forth.

In Subpart G, § 71.181 (42 FR 440), the Killeen, Tex., transition area is amended to read, in part, by deleting:

Within 3.5 miles each side of the 341° bearing from Gray RBN (Latitude 31°07'18" N., Longitude 97°51'02" W.) extending from the 7-mile radius area to 11.5 miles north of the RBN; and substituting therefor: within 3.5 miles of each side of the 337° bearing from STARN RBN (Latitude 31°-10'03" N., Longitude 97°52'41" W.) extending from the 7-mile radius area to 11.5 miles north of the RBN.

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

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 Fort Worth, Tex., on July 28, 1977.

PAUL J. BAKER,
*Acting Director,*
*Southwest Region.*

[FR Doc.77-22873 Filed 8-10-77;8:45 am]

[Airspace Docket No. 77-SW-19]

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

**Alteration of Transition Area, De Ridder, La.**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the De Ridder, La., transition area to provide controlled airspace for aircraft executing the newly established NDB instrument approach procedure to Runway 36 at the Beauregard Parish Airport.

EFFECTIVE DATE: October 6, 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, Fort Worth, Texas 76101; telephone: 817–624–4911, extension 302.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the De Ridder, La., transition area.

On June 17, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 20640) stating that the Federal Aviation Administration proposed to alter the De Ridder, La., transition area to provide controlled airspace for aircraft executing the newly established NDB instrument approach procedure to Runway 36 at the Beauregard Parish Airport.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

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, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 G.m.t., October 6, 1977, as hereinafter set forth.

In Subpart G, § 71.181 (42 FR 440), the De Ridder, La., transition area is amended as follows:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Beauregard Parish Airport (Latitude 30°50'00" N., Longitude 93°20'00" W.) within 3.5 miles each side of the 347 bearing from the De Ridder NDB (Latitude 30°50'00" N., Longitude 93°20'00" W.) extending from the 5-mile radius area to 11.5 miles north of the NDB, and within 3 miles each side of the 191 bearing from the De Ridder NDB extending from the 5-mile radius area to 8 miles south of the NDB.

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

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 Fort Worth, Tex., on August 1, 1977.

PAUL J. BAKER,
*Acting Director, Southwest Region.*

[FR Doc.77-22874 Filed 8-10-77;8:45 am]

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[Airspace Docket No. 77-AL-1]

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

### Realignment of Federal Airway and Addition of Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns B–27 between the Oscarville, Alaska, NDB near Bethel, Alaska, and the Fort Davis, Alaska, NDB near Nome, Alaska, via the St. Marys, Alaska, NDB which is slightly west of the present direct airway. Use of the St. Marys NDB will permit a lower minimum en route altitude (MEA) to be used with very little increase in airway distance between Bethel and Nome. A reporting point is designated at St. Marys to assist in the control of air traffic.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202–426–3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 13, 1977, the FAA published for comment a proposal to realign B–27 between Oscarville and Fort Davis via St. Marys and to designate St. Marys as an Alaskan low altitude reporting point (42 FR 30211). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) realigns B–27 slightly westward between Bethel and Nome via St. Marys. Use of the recently acquired FAA NDB at St. Marys will permit a lower MEA and a shorter distance between air navigation aids on this airway. Designating a reporting point at St. Marys will assist in the control of air traffic in the immediate area and along B–27.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subparts B and I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 305, 638) are amended, effective 0901 G.m.t., October 6, 1977, as follows:

In § 71.109, B–27 "Oscarville, Alaska, RBN; 46 miles, 173 miles, 30 MSL, Fort Davis, Alaska, RBN;" is deleted and "Oscarville, Alaska, NDB; St. Marys, Alaska; Fort Davis, Alaska, NDB;" is substituted therefor.

In §71.211 "St. Marys, Alaska, NDB" is added.

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

NOTE.—The FAA has determined that this 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 Washington, D.C., on August 2, 1977.

WILLIAM E. BROADWATER,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.77-22877 Filed 8-10-77;8:45 am]

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[Airspace Docket No. 77-RM-3]

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

### Numbering of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds the number "V–95" to the segment of V–421 between Farmington, N. Mex., and Gunnison, Colo., which is designated via Durango, Colo. The description of V–95 will no longer omit this segment of airway. Therefore, flight planning and communication time will be reduced.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202–426–3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to include a segment of V–421 in the description of V–95 (dual designate). V–95, as presently designated, stops at Farmington, N. Mex., and starts again at Gunnison, Colo. This break requires additional flight planning and communication to describe the route that bridges the gap. Because the numbering of airways is an administrative function, this action is considered minor in nature and one on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, of

fective 0901 G.m.t. October 6, 1977, as follows:

In V-95 "Farmington, N. Mex. From Gunnison, Colo.," is deleted and "Farmington, N. Mex.; Durango, Colo.; Gunnison, Colo.," is substituted therefor.

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

NOTE.—The FAA has determined that this 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 Washington, D.C., on August 2, 1977.

WILLIAM E. BROADWATER,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.77-22878 Filed 8-10-77;8:45 am]

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[Airspace Docket No. 77-SO-19]

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

### Revocation of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes VOR Federal Airway No. 142 which was originally designated for service between Atlanta, Ga., and August, Ga. Now the airway is rarely used, and its revocation will remove unnecessary information from aeronautical charts.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Wray McClung, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 23, 1977, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revoking VOR Federal Airway No. 142 (42 FR 31806). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Only one comment was received and it offered no objection to the proposal. Except for editorial changes, this amendment is that proposed in the notice. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 307), and VOR Federal Airway No. 142 appeared on page 323.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) revokes VOR Federal Airway No. 142. This airway presently extends from Augusta, Ga., to HUSKY Intersection, and was originally established to provide for service between Augusta and Atlanta, Ga. During the past several months this airway has been rarely used, and action is taken herein to revoke the airway and remove it from aeronautical charts so that pertinent information will be more easily discernible.

DRAFTING INFORMATION

The principal authors of this document are Mr. Wray McClung, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 G.m.t., October 6, 1977, as follows:

In § 71.123, V-142 is revoked in its entirety.

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

NOTE.—The FAA has determined that this 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 Washington, D.C., on August 2, 1977.

WILLIAM E. BROADWATER,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.77-22879 Filed 8-10-77;8:45 am]

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[Airspace Docket No. 77-NE-12]

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

### Establishment of 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a 700-foot transition area at Belfast, Maine. This transition area will provide controlled airspace for aircraft executing a new (NDB Rwy-15) standard instrument approach procedure to the Belfast Municipal Airport, Belfast, Maine.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone 617-273-7285.

SUPPLEMENTARY INFORMATION: On July 14, 1977, the Federal Aviation Administration published a Notice proposing to establish a 700-foot transition area at Belfast, Maine, to provide controlled airspace for aircraft executing a new (NDB Rwy-15) standard instrument approach procedure to the Belfast Municipal Airport, Belfast, Maine. Interested persons were invited to participate in this rule making process by submitting written comments on the proposal to the FAA. No objections were received.

DRAFTING INFORMATION

The principal authors of this document are Richard G. Carlson, Air Traffic Division, New England Region, and George L. Thompson, Associate Regional Counsel, New England Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR PART 71) is amended, effective 0901 G.m.t., December 1, 1977, as follows:

SECTION 71.181

BELFAST, MAINE, 700-FOOT TRANSITION AREA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 44°24'34"N., 69°00'45"W., of Belfast Municipal Airport; within 3.5 miles each side of the 126° bearing and the 306° bearing from the Belfast, Maine, NDB, 44°24'40"N., 69°00'41"W., extending from the 6-mile radius area to 18 miles northwest of the NDB; excluding that portion which coincides with the Pittsfield, Maine, 700-foot transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); 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 Burlington, Mass., on July 29, 1977.

WILLIAM E. CROSBY,
*Acting Director, New England Region.*

[FR Doc.77-22880 Filed 8-10-77;8:45 am]

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[Airspace Docket No. 77-WE-12]

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

### Designation of Transition Area, Cameron, Arizona

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment designates a 1,200 foot and an 11,700 foot transition area at Cameron, Arizona to provide protection for aircraft operating within the Sunny Military Operations Area (MOA) and for radar service for aircraft transiting the area.

EFFECTIVE DATE: October 6, 1977.

ADDRESSES: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone: 213–536–6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area at Cameron, Arizona.

On June 27, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 32553) stating that the Federal Aviation Administration proposed to designate a transition area at Cameron, Arizona, to provide controlled airspace for aircraft operating within the Sunny MOA and for aircraft desiring radar service transiting the area.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. October 6, 1977.

§ 71.181 [Amended]

By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new Transition Area as follows:

CAMERON, ARIZONA

That airspace extending upward from 1,200 feet above the surface within a three mile radius of Humphreys Park (latitude 35°21'00" N., longitude 111°40'25" W.), and that airspace extending upward from 11,700 feet mean sea level (MSL) bounded by a line begining at latitude 34°52'20" N., longitude 112°00'00" W., to latitude 35°26'00" N., longitude 112°00'00" W., to latitude 35°58'00" N., longitude 111°43'30" W., to latitude 36°06'30" N., longitude 111°00'00" W., to latitude 35°56'00" N., longitude 110°21'00" W., thence south via longitude 110°21'00" W., to the northwest edge of V–95, thence southwest via the northwest edges of V–95 and V–12 to point of beginning excluding that portion within the 1,200 foot area of Humphreys Peak.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); 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 Los Angeles, Calif., on August 1, 1977.

FRANK HAPPY,
*Acting Deputy Director,*
*Western Region.*

[FR Doc.77–22881 Filed 8–10–77;8:45 am]

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[Airspace Docket No. 77–WE–13]

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

### Designation of Transition Area, Alturas, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Alturas, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Alturas Municipal Airport and for transition routes to the Nondirectional Radio Beacon (NDB).

EFFECTIVE DATE: October 6, 1977.

ADDRESSES: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone: 213–536–6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area at Alturas, California.

On June 23, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 31805) stating that the Federal Aviation Administration proposed to designate a transition area at Alturas, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Alturas Municipal Airport.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Larson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Adminstrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., October 6, 1977.

§ 71.181 [Amended]

By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new transition area as follows:

ALTURAS, CALIFORNIA

That airspace extending upward from 700 feet above the surface within a five mile radius of Alturas Municipal Airport (latitude 41°29'02" N., longtitude 120°33'49" W.) and within three miles each side of the Alturas NDB (latitude 41°28'16" N., longtitude 120°33'25" W.) 167° bearing, extending from the five mile radius area to nine miles south of the NDB; that airspace extending upward from 1200 feet above the surface, within six miles east and nine miles west of the 167° and 347° bearings extending from the NDB to 21 miles south and nine miles north of the NDB and within five miles each side of the 079° and 239° bearings extending from the NDB to west edge of V–165 and the east edge of V–452.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); 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 Los Angeles, Calif., on August 1, 1977.

FRANK HAPPY,
*Acting Deputy Director,*
*Western Region.*

[FR Doc.77–22882 Filed 8–10–77;8:45 am]

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## Title 33—Navigation and Navigable Waters

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76–46]

## PART 110—ANCHORAGE REGULATIONS

### Special Anchorage Areas, Mackerel Cove, Bailey Island, Maine

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a special anchorage area in Mackerel Cove, Bailey Island, Maine. The need for this amendment has developed over the years as a result of increased boat traffic and an increase in the number of vessels mooring in the area. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective September 10, 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 SW., Washington, D.C. 20590, 202–426–1477.

SUPPLEMENTARY INFORMATION: On March 3, 1977 the Coast Guard published a proposed rule (42 FR 12207) concerning this amendment. Interested persons were given until April 17, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by adding a new paragraph (a–2) to § 110.5 to read as follows:

§ 110.5 Casco Bay, Maine.

* * * * *

(a–2) Mackerel Cove, Bailey Island, Harpswell. The water area of Mackerel Cove lying northeasterly of a line from a point on Abner Point at latitude 43°43'28" N., longitude 70°00'19" W., to a point on Bailey Island at latitude 43°43'18.2" N., longitude 70°00'12.2" W.

* * * * *

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

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: August 4, 1977.

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

[FR Doc.77-23239 Filed 8-10-77;8:45 am]

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[CGD–76–47]

## PART 110—ANCHORAGE REGULATIONS

### Establishment of Special Anchorage Area, St. Simons Island, Georgia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a special anchorage area at St. Simons, Georgia. This amendment is needed to meet the heavy demand for anchorage space for transient vessels. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective September 10, 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 SW., Washington, D.C. 20590 (202–426–1477).

SUPPLEMENTARY INFORMATION: On March 7, 1977, the Coast Guard published a proposed rule (42 FR 12889) concerning this amendment. Interested persons were given until April 20, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION

The principal Persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by adding § 110.72b to read as follows:

§ 110.72b St. Simons Island, Georgia.

The area beginning at a point southwest of Frederica River Bridge, St. Simons Island Causeway at latitude 31°09'58" N., longitude 81°24'55" W.; thence southwesterly to latitude 31°09'42" N., longitude 81°25'10" W.; thence westerly to the shoreline at latitude 31°09'45" N., longitude 81°25'20" W.; thence northeasterly along the shoreline to latitude 31°10'02" N., longitude 81°25'00" W.; thence southeasterly to the point of origin.

(Sec. 1 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1656(g)(1)(B)); 49 CFR 1.46(c)(2))

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: August 4, 1977.

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

[FR Doc.77-23240 Filed 8-10-77;8:45 am]

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[CGD 76–185]

## PART 110—ANCHORAGE REGULATIONS

### Disestablishment of Special Anchorage Area A–3, San Diego Harbor, California

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment disestablishes a special anchorage area in San Diego Harbor, California. Construction of a marina in this area renders a portion of this anchorage unsuitable for mooring vessels. Anchoring of unlighted vessels in the remaining area is no longer considered to be in the interest of safe navigation.

EFFECTIVE DATE: This amendment is effective September 10, 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 SW., Washington, D.C. 20590 (202–426–1477).

SUPPLEMENTARY INFORMATION: On November 18, 1976 the Coast Guard published a proposed rule (41 FR 50842) concerning this amendment. Interested persons were given until January 3, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, § 110.90 of Part 110 of Title 33 of Code of Federal Regulations is amended by revoking paragraph (c).

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

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: August 4, 1977.

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

[FR Doc.77-23238 Filed 8-10-77;8:45 am]

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## Title 34—Government Management

## CHAPTER II—GENERAL SERVICES ADMINISTRATION

### SUBCHAPTER C—PROPERTY MANAGEMENT

## PART 231—UTILIZATION, DISPOSITION, AND ACQUISITION OF FEDERAL REAL PROPERTY

### Real Property Management

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation removes from Title 34 GSA's regulations concerning Government-wide real property management. Appropriate portions of these regulations have been moved to Title 41, which contains related GSA regulations. The changes are necessary because of a recent reorganization in GSA. The intent of this change is to remove the regulations that are no longer necessary.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Bergdahl, Office or Real Property, Public Buildings Service, General Services Administration, Washington, D.C. 20405, 202–566–1339.

SUPPLEMENTARY INFORMATION: Executive Order 11893, dated December 31, 1975, transferred real property management functions from the General Services Administration (GSA) to the Office of Management and Budget (OMB) and resulted in the abolishment

of the Office of Federal Management Policy in GSA. One function that was not transferred to OMB is the responsibility for Federal Management Circular (FMC) 73–5, which was codified in 34 CFR Part 231. Appropriate provisions of FMC 73–5 and its predecessor, OMB Circular A–2, have been incorporated in the Federal Property Management Regulations, 41 CFR Part 101–47. Since this regulation has Government-wide applicability, no useful purpose would be served by recodification of FMC 73–5 as a separate regulation.

Accordingly, Part 231 of Title 34 is hereby vacated and reserved.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); EO 11893)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A–107.

Dated: July 28, 1977.

JOEL W. SOLOMON,
*Administrator of General Services.*

[FR Doc.77–23159 Filed 8–10–77;8:45 am]

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**Title 40—Protection of Environment**

**CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY**

**SUBCHAPTER C—AIR PROGRAMS**

[FRL 772–2]

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Revocation of Approval of California's Air Pollution Emergency Plan**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) hereby takes final action to revoke its previous approval of the California Air Pollution Emergency Plan pursuant to an order of the U.S. District Court for the Central District of California. The effect of this action is to leave the State Implementation Plan for California without an approved emergency episode contingency plan.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, CA 94111. Attn: Charlotte Hopper, (415–556–2002).

SUPPLEMENTARY INFORMATION: Under Section 110(a)(2)(F)(v) of the Clean Air Act and 40 CFR 51.16, State Implementation Plans (SIPs) are required to contain air pollution emergency episode contingency plans. On May 31, 1972 (37 FR 10851) the Administrator disapproved the emergency plan portion of the original California SIP (40 CFR 52.231) for failure to contain an adequate emergency episode plan.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the California State Air Resources Board (ARB) requesting the U.S. District Court for the Central District of California to order the EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California, California Lung Association et al v. Train, Civil No. 75–1044–WPG.

Pursuant to an agreed upon schedule, EPA and the ARB worked together toward Federal approval of an emergency episode plan for the SCAB. On April 12, 1976 (41 FR 15327) EPA approved as a revision to the SIP California's October 21, 1975 Air Pollution Emergency Plan only for the three pollutants set out therein (photochemical oxidants, sulfur dioxide and carbon monoxide).

On June 27, 1977, pursuant to plaintiff California Lung Association's motion for a preliminary injunction, Judge William P. Gray ordered the Administrator to certify to the Court that the emergency episode plan approved on April 12, 1976 was fully adequate under the law in all respects, or to withdraw such approval. The Administrator responded to this order by an affidavit, dated July 6, 1977, which stated that since the Agency's April 12, 1976, approval of the plan applied only to the three pollutants specifically set forth therein, he concluded that the plan was not fully complete. This FEDERAL REGISTER notice therefore rescinds the prior EPA aporoval and reinstates the disapproval of the emergency episode plan of the California SIP.

On June 1, 1977, the ARB submitted as SIP revisions, the March 24, 1977 revisions to the California Air Pollution Emergency Episode Plan along with South Coast Air Quality Management District Regulation VII (revised May 6, 1977) concerning emergency episodes in the South Coast Air Basin. EPA will publish a separate notice of proposed rulemaking addressing these revisions in the future.

The Administrator finds good cause for making this revocation effective August 11, 1977 since the action is taken pursuant to a Court order.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 1857c–5, 1857g).)

Dated: August 5, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

[FR Doc.77–23116 Filed 8–10–77;8:45 am]

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[FRL 775–7]

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Montana; Redesignation of Northern Cheyenne Indian Reservation for Prevention of Significant Deterioration**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this action is to approve the March 7, 1977, request of the Northern Cheyenne Tribal Council to redesignate the Northern Cheyenne Indian Reservation to Class I under EPA's regulations for prevention of significant air quality deterioration (PSD). Class I applies to areas in which practically any change in air quality would be considered significant. On April 29, 1977, EPA published a notice announcing EPA's tentative decision to approve the proposed redesignation and soliciting written public comments. Neither the comments nor EPA's detailed review surfaced any deficiencies in the proposal. Thus, EPA is approving the redesignation of the reservation to Class I as a revision to the Montana implementation plan.

EFFECTIVE DATE: August 5, 1977.

ADDRESSES: Copies of the Northern Cheyenne analysis and EPA support document are available at: U.S. Environmental Protection Agency, Region VIII, Office of Public Affairs, Suite 900, 1860 Lincoln Street, Denver, Colorado 80295.

U.S. Environmental Protection Agency, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Louis W. Johnson, Chief, Planning & Operations Section, Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, 303–837–3711.

SUPPLEMENTARY INFORMATION: On December 5, 1974 (39 FR 42510), EPA promulgated regulations for the prevention of significant air quality deterioration (PSD). The intent of these regulations is to prevent deterioration of existing air quality, particularly in areas currently considered to be pristine. The regulations provide for three basic classifications applicable to all lands of the United States. Associated with each classification are increments which represent the increase in air pollutant concentration that would be considered significant. Class I applies to areas in which practically any change in air quality would be considered significant; Class II applies to areas in which deterioration normally accompanying moderate well-controlled growth would be considered insignificant; and Class III applies to those areas in which deterioration up to the national standard would be considered insignificant. Under the regulations, all areas of the country were initially designated Class II. The regulations allow States, Federal Land Managers, and Indian Governing Bodies to reclassify areas under their jurisdiction to accommodate the social, economic, and environmental needs and the desires of the local population.

The PSD regulation is implemented through a preconstruction review program affecting nineteen categories of major sources. Such sources cannot receive permission to construct if their emissions, together with other emission

changes since January 1, 1975, would violate the applicable increment.

On March 7, 1977, EPA received an official proposal from the Northern Cheyenne Tribal Council to redesignate the Northern Cheyenne Indian Reservation to Class I. The request was accompanied by an analysis of the reasons for the proposed redesignation and the associated social, economic, and environmental impacts as well as the regional and national impacts of the proposed redesignation.

The Northern Cheyenne's primary reasons for proposing redesignation were stated as follows:

A desire to preserve the lifestyle of the reservation and the existing culture without disruption caused by further air quality deterioration.

Adverse effects on human health caused by further degradation of air quality. The Northern Cheyenne cite the existing high rate of respiratory illness among residents of the reservation.

Impacts of further air quality degradation on the growth of vegetation, especially the ponderosa pine forest.

Potential impacts on visibility of further air quality degradation.

On April 29, 1977 (42 FR 21819), EPA published a notice in the FEDERAL REGISTER announcing receipt of the proposal and soliciting public comment on the request with respect to the review criteria set forth in 40 CFR 52.21. On June 10, 1977 (42 FR 29937), in response to requests by interested parties, EPA extended that public comment period until June 30, 1977.

The April 29, 1977, notice presented a brief discussion of the requirements for redesignation and the efforts of the Northern Cheyenne to comply with those requirements. That discussion raised one potential cause for disapproval of the request—the requirement that an Indian Governing Body propose the redesignation with the approval of the Secretary of Interior. As indicated in the notice, EPA had received a communication from an official of the Bureau of Indian Affairs. EPA was uncertain of the authority of the BIA official and requested a clarification from the Office of the Secretary of Interior. The Secretary's office responded that the BIA official had been delegated authority to give Secretarial approval in such matters. Thus, EPA has determined that this requirement was met by the Northern Cheyenne Tribal Council.

### COMMENTS

There were 62 comments submitted to EPA. While it is not practical to discuss every comment here, the major points are discussed below. The comments are discussed in more detail in the document entitled "EPA Support Document for Northern Cheyenne Redesignation Request," referenced at the end of this preamble.

### MORE PUBLIC INPUT

Some argued that EPA should hold extensive public hearings and solicit additional public comment before taking final approval action on the redesignation. The PSD regulation, which has been upheld in "Sierra Club v. EPA," 540 F. 2d 1114 (D.C. Cir. 1976),[1] contains procedures providing full opportunity for public hearings and comment. Such procedures have been complied with in this case.

The Northern Cheyenne held a public hearing on January 17, 1977, in Lame Deer, Montana, which is accessible to people living in the area affected by the redesignation. They also held the record open following the hearing to permit further public comments. There was a great amount of interest and comments (both pro and con) were submitted and integrated into the Northern Cheyenne's final analysis.

EPA also provided its own period for public comment on the Northern Cheyenne proposal and even extended the period an additional 30 days. Because the regulation limits EPA's scope of review on this proposal to determining whether procedural requirements were complied with and whether the Tribe arbitrarily or capriciously disregarded certain factors, nothing would be gained by further prolonging the comment period. In fact, doing so would be unfair to the Northern Cheyenne, who have completed the lengthy task of complying with all of the redesignation procedures and are now entitled to a resolution of their request.

### MONTANA LAWS ADEQUATE

There were several comments that the Montana Siting Act and/or the Montana environmental rules are adequate to protect the environment. Montana's rules and regulations contain no provisions for prevention of significant deterioration. Therefore, in December 1974, EPA, pursuant to a court decision, disapproved the State's implementation plan and promulgated the PSD regulations. As noted above, these regulations have been upheld by the D.C. Circuit Court of Appeals.

### EXISTING LIFE STYLE ALTERED

Many expressed concern that farming activities on or near the reservation would be adversely affected or that the redesignation could hinder the ways of life of people holding land. Another individual stated that he could not understand why Class I designation was needed in an area not currently experiencing air pollution problems. The intent of the PSD regulations is to maintain as nearly as practicable the existing air quality in designated areas where local priorities so require. As such, they are effective in clean air areas—not in areas that are violating ambient standards. They are implemented through a new source review program to restrict the emissions from certain major industrial sources if they would cause significant air quality degradation. The regulation would have no effect upon the operation of existing facilities or upon minor sources. Since farming is not a major source of industrial pollution, farming activities would also not be affected. Thus, the PSD regulation and the redesignation would not inhibit farming activities or alter anyone's existing way of life. On the contrary, Class I designation would more effectively maintain the existing way of life than any other designation.

### EIS REQUIRED BY NEPA

Some argued that EPA must comply with the requirements of the National Environmental Policy Act (NEPA) prior to any decision on the Northern Cheyenne redesignation request. Congress, however, has made its intentions abundantly clear in this regard: "No action taken under the Clean Air Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969." 15 U.S.C.A. 793(c)(1). In any event, the Northern Cheyenne analysis of the social, environmental and economic effects of the redesignation, the extensive public comments both to the tribe and EPA, and the agency's own evaluation of all this information, adequately accomplish the goals and purposes of NEPA.

### COLSTRIP 3 & 4 AFFECTED

Several comments expressed concern that a Class I designation would prevent the construction of electric power plant units known as Colstrip 3 & 4, which are planned for a site near the Northern Cheyenne reservation. The commentors argued that the result would be a shortage of power in Montana and the Pacific Northwest. While dispersion modeling presented in the analysis and performed by EPA indicates that the units, as proposed, would violate the Class I increments for $SO_2$ on the reservation, the redesignation would not necessarily prevent their construction. EPA's analysis indicates that approximately 90 percent capture of the $SO_2$ emissions from the new units would reduce emissions sufficiently to avoid violation of the increment. Therefore, redesignation of the reservation should require additional control efforts which are achievable by currently available control technology for the proposed new units.

### REVERSIBILITY

One individual expressed doubts that the Class I designation could be reversed. The Northern Cheyenne could, if their priorities were to change in the future, seek redesignation back to Class II or Class III through the same procedures implemented in their effort to reclassify to Class I. However, as was pointed out in the Northern Cheyenne's analysis, Class II and Class III designations are not nearly so reversible. Once the air quality on the reservation is deteriorated, it would be extremely difficult to renew it to its original quality.

[1] The Supreme Court agreed to review this decision on April 4, 1977. EPA strongly supports the validity of the PSD regulations and will fully implement and enforce them unless EPA's position is overturned in the Supreme Court. Several other U.S. Courts of Appeal have agreed with the D.C. Circuit; none have disagreed. Moreover, Congress has on several occasions rejected attempts to delete PSD authority from the Clean Air Act.

NATIONAL IMPACTS

Many argued that the redesignation would have significant impacts on national interests, specifically by restricting energy production. As discussed in EPA's proposal of April 29, there are two major concerns related to energy production; (a) strip mining of coal, and (b) conversion of coal to electric power or gas. Since strip mines are not subject to the preconstruction review program of the PSD regulation, they would not be directly affected by a redesignation. On the other hand, coal conversion facilities would be affected. The Northern Cheyenne analyzed the impacts of various development scenarios and reported that large facilities located within ten to thirty miles of the reservation border might violate the Class I increment. Therefore, the planning of such facilities would have to be done more carefully with regard to location and, pollution control. However, the redesignation would not prevent the construction of new facilities in the general area. Given the relatively small area of the reservation (700 square miles), the redesignation should not significantly affect national energy interests.

REGIONAL IMPACTS

There were comments that the potential restrictions upon energy development may affect regional interests. The potential regional impacts primarily involve energy development on the Crow Reservation, which is adjacent to the western border of the Northern Cheyenne Reservation. EPA received comments from eleven members of the Crow Tribe and from the law offices of Lynaugh and Fitzgerald, which serves as designated legal counsel for the Crow Tribe.

In discussing comments related to the potential impacts of the redesignation upon the Crow Tribe it should be noted that the Crow Tribal Constitution and By-laws provide that only the Crow Tribal Council, which consists of all voting members of the Crow Tribe, can determine a Tribal position or empower a representative to speak for the Tribe on a matter such as redesignation. There has been no indication to date that the Tribal Council has developed a position on the Northern Cheyenne redesignation proposal or empowered anyone to represent the Council in this matter. While some tribal members and their legal counsel have expressed opposition to the redesignation because of its potential impact upon development of coal reserves, several members of the Crow Tribe have also expressed support for the redesignation.

As discussed previously, coal mining in the eastern portion of the Crow Reservation would be under no additional restriction as a result of this reclassification. However, coal conversion facilities could be restricted depending upon size, spacing, and control technology. The exact nature of the restriction is difficult to determine since final development plans have not been made and the only proposed development to date is for coal mines producing coal for export.

APPROVAL

Section 52.21(c)(3)(vi) states that the Administrator will approve a request for redesignation by an Indian Governing Body unless (1) the procedural requirements previously discussed have not been followed; or (2) the Indian Governing Body has arbitrarily and capriciously disregarded the considerations of growth, environmental, and economic effects, or national or regional interests. Both the Northern Cheyenne analysis and the EPA support document show that the Northern Cheyenne have fully complied with all of the procedural requirements, and that the Northern Cheyenne have considered all of the relevant factors and have not arbitrarily and capriciously disregarded them.

EPA therefore approves the Northern Cheyenne proposal and herein promulgates a revision to the Montana State Implementation Plan which redesignates the Northern Cheyenne Indian Reservation as Class I. Additional support for this approval can be found in the document entitled "EPA Support Document for Northern Cheyenne Redesignation Request," which is part of this rulemaking action. This document is available for inspection and copying at the addresses listed in the introduction to this notice.

This action is effective immediately. There is good cause for making the action immediately effective since EPA has been holding in abeyance a preconstruction permit request pending final action on the redesignation. Furthermore, no useful purpose would be served by deferring the effectiveness of this action for thirty days because new applications for construction would have to be evaluated in light of this action in any event.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g).)

Dated: August 5, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

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

**Subpart BB—Montana**

In § 52.1382, paragraph (c) is added as follows:

**§ 52.1382 Significant deterioration of air quality.**

* * * * *

(c)(1) Except as set forth in this paragraph, all areas of Montana are designated Class II.

(2) The Northern Cheyenne Indian Reservation is designated Class I.

[FR Doc.77-23111 Filed 8-5-77;5:16 pm]

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[FRL-774-7]

## PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

### Clean Air Act Amendments to Light-Duty Vehicle Exhaust Emission Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action revises the 1978 model year light-duty vehicle exhaust emission standards to make those standards consistent with the recently enacted Clean Air Act Amendments of 1977, (as signed August 7, 1977). The revised 1978 model year light-duty vehicle standards are the same as the 1977 model year standards.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

David A Finley, Regulatory Management Staff, Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington D.C. 20460, 202-755-0596.

SUPPLEMENTARY INFORMATION: This action brings the regulations setting exhaust emission standards for light-duty vehicles into accord with the Clean Air Act Amendments of 1977 (as signed August 7, 1977). This amendment to the regulations is purely ministerial. Consequently, the provision of notice and the opportunity for public comment on this action are unnecessary and are being foregone as provided by 5 U.S.C. 553 (related to administrative procedure). For the same reasons, this action is being made effective immediately.

NOTE.—The Environmental Protection Agency has determined that this regulation does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: August 8, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

40 CFR Part 86 is amended as follows:

1. By amending § 86.078-8(a)(1) to read as follows:

**§ 86.078-8 Emission standards for 1978 light-duty vehicles.**

(a)(1) Exhaust emissions from 1978 model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 1.5 grams per vehicle mile.

(ii) *Carbon monoxide.* 15 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 2.0 grams per vehicle mile.

* * * * *

(Section 202 of the Clear Air Act, as amended (42 U.S.C. 1857f-1).)

[FR Doc.77-23258 Filed 8-10-77;8:45 am]

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## SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 776-1]

## PART 416—PLASTICS AND SYNTHETICS MANUFACTURING POINT SOURCE CATEGORY

### Correction Notice

AGENCY: Environmental Protection Agency.

ACTION: Corrections.

SUMMARY: This document corrects errors in the June 10, 1977 correction notice (42 FR 29871). The error consisted of correcting § 416.26 instead of § 416.126. The errant Correction Notice has no effect on § 416.26 since the new and the original language exactly match. This error is of a typographical nature and does not involve any substantive or policy issues.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

Dated: August 2, 1977.

THOMAS C. JORLING,
*Assistant Administrator for Water and Hazardous Materials.*

Part 416 of Chapter I, Title 40 of the Code of Federal Regulations is corrected to read as follows:

**§ 416.126 [Amended]**

The pretreatment standards for new sources are revoked.

[FR Doc.77-23115 Filed 8-10-77;8:45 am]

## Title 41—Public Contracts and Property Management

## CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

### SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amendment H-102]

## PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

### Miscellaneous Revisions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule revises the regulations concerning utilization and disposal of real property to delete references to Federal Management Circular 73-5, Utilization, disposition, and acquisition of Federal real property, which has been canceled. Two references are also corrected. This rule is intended to update GSA's regulations without changing policy or procedures in the regulations.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Bergdahl, Office of Real Property, Public Buildings Service, General Services Administration, Washington, D.C. 20405, 202-566-1339.

### Subpart 101-47.2—Utilization of Excess Real Property

1. Section 101-47.201-1(a) is revised to read as follows:

**§ 101-47.201-1 Policy.**

* * * * *

(a) To stimulate the identification and reporting by executive agencies of excess real property.

* * * * *

2. Section 101-47.201-3(a) is revised to read as follows:

**§ 101-47.201-3 Lands withdrawn or reserved from the public domain.**

(a) Agencies holding lands withdrawn or reserved from the public domain, which they no longer need, shall send to the GSA regional office for the region in which the lands are located an information copy of each notice of intention to relinquish filed with the Department of the Interior (43 CFR 2372, et seq.).

* * * * *

3. Section 101-47.203-1 is revised to read as follows:

**§ 101-47.203-1 Reassignment of real property by the agencies.**

Each executive agency shall, as far as practicable and within the policies expressed in this Subpart 101-47.2, make reassignments of real property and related personal property under its control and jurisdiction among activities within the agency instead of acquiring such property from other sources.

4. Section 101-47.203-2 is revised to read as follows:

**§ 101-47.203-2 Transfer and utilization.**

Each executive agency shall, as far as practicable and within the policies expressed in this Subpart 101-47.2, transfer excess real property under its control to other Federal agencies and to the organizations specified in § 101-47.203-7, and shall fulfill its requirements for real property by obtaining excess real property from other Federal agencies. Transfers of property shall be made in accordance with the provisions of this subpart.

5. Section 101-47.203-7(d) is revisel to read as follows:

**§ 101-47.203-7 Transfers.**

* * * * *

(d) Transfers of property to executive agencies shall be made when the proposed land use is consistent with the policy of the Administrator of General Services as prescribed in § 101-47.201-1 and the policy guidelines prescribed in § 101-47.201-2. In determining whether a proposed transfer should be approved under the policy guidelines, GSA and OMB may consult informally to obtain all available data concerning actual program needs for the property.

* * * * *

### Subpart 101-47.8—Identification of Unneeded Federal Real Property

Section 101-47.802(a) is revised to read as follows:

**§ 101-47.802 Procedures.**

(a) *Executive agency annual review.* Each executive agency shall make an annual review of its property holdings.

* * * * *

### Subpart 101-47.49—Illustrations

1. Section 101-47.4904 is revised as follows:

**§ 101-47.4904 GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.**

2. Section 101-47.4904-1 is amended as follows:

**§ 101-47.4904-1 Instructions for preparation of GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.**

NOTE.—The illustrations §§ 101-47.4904 and 101-47.4904-1 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

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

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: July 28, 1977.

JOEL W. SOLOMON,
*Administrator of General Services.*

[FR Doc.77-23160 Filed 8-10-77;8:45 am]

## Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 55 (Sub-No. 24)]

## PART 1100—RULES OF PRACTICE

### Approval Forms

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak (Rates), (202-275-7693), Philip Israel (Finance), (202-275-7245), Michael Erenberg (Operating Rights), (202-275-7292).

SUMMARY: By notice published in the FEDERAL REGISTER, 42 FR page 23806, May 11, 1977, the Interstate Commerce Commission promulgated revisions to its rules of practice, 49 CFR Part 1100. After certain typographical errors in "Appendix B—Approved Forms", 42 FR beginning at page 23835, were brought to the attention of the Commission, a notice of correction was published, 42 FR page 29311, June 8, 1977. The notice of correction, however, failed to rectify completely previous errors and, since

the typographical errors, especially those relative to numerical designations of footnotes, are pervasive, and because further correction by itemized reference would lead to additional confusion, Appendix B, as corrected, will be set forth below in its entirety. Accordingly, that portion of the revised rules designated "Appendix B—Approved Forms", should be excised from the revised rules as published and previously corrected, so that, as corrected by this notice. Appendix B—Approved Forms reads as follows:

APPENDIX B—APPROVED FORMS

TABLE OF CONTENTS

1. Complaint; verification.
2. Answer.
3. Certificate of service.
4. Petition for leave to intervene.
5. Form of reparation statement under Rule 95.
6. Verification for statements of fact filed under modified procedure.
7. Approved Form No. 7 under Rule 245.

(These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary. Before using such forms the pertinent rules, particularly those referred to in the footnotes, should carefully be studied.)

NO. 1. COMPLAINT [1]

Before the Interstate Commerce Commission

Complaint

---

v.

---

(Insert without abbreviation the names of the complainant and defendant (including each of the receivers, operating trustees, or other legal representatives of defendant), and whether a corporation, firm or partnership, specifying the individual name of the parties composing the partnership; and the post office address of any motor carrier defendant.)

The Complaint of the above-named complainant respectfully shows:

I. That (complainant should here state nature and place of business, also whether a corporation, firm, or partnership and if a firm or partnership, the individual names of the parties composing same).

II. That the defendant above-named is (here state whether: (a) carrier by railroad, express, motor vehicle (common or contract), water (common or contract), a freight forwarder, or otherwise; (b) the transportation is of property or passengers, or both; and (c) the transportation involves a freight forwarder or more than one type of carrier (specifying particulars) between points in the State of _____ and points in the State of _____ (a complaint under part II should specifically name the States in and through which the transportation which gives rise to the complaint is performed) and as such defendant is subject to the provisions of the Interstate Commerce Act).

III. That (state in this and subsequent paragraphs to be numbered IV, V, etc. the matter or matters intended to be complained of, naming every rate, fare, charge, classification, regulation, or practice the lawfulness of which is challenged, and also, if practicable, the points between which the rates, etc., complained of are applied. Where it is impracticable to designate each point, describe clearly the rate territory or rate group involved. Whenever practicable tariff or schedule reference should be given).

(Where unlawful discrimination, preference, or prejudice is alleged the particular elements specified in the act as constituting such violation (see sections 2, 3, 4, 13, 216, 217, 218, 305, and 406) and the facts upon which complainant relies to establish the violation should be stated clearly. Where any provision of the act other than those just mentioned, or any requirement established pursuant to the act, is alleged to be violated, the pertinent statutory provision, or established requirement, together with the facts which are alleged to constitute the violation, should be stated. If two or more subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one subsection, or requirement, should be stated separately from those claimed to constitute a violation of another subsection, or requirement, wherever that can be done by reference or otherwise without undue repetition.)

X. That by reason of the facts stated in the foregoing paragraphs complainant has been subjected to the payment of rates (fares or charges, etc.) for transportation which were when exacted and still are (1) unjust and unreasonable in violation of section _____, of the Interstate Commerce Act, and (2) unjustly discriminatory in violation of section _____, and (3) unduly preferential or prejudicial in violation of section _____, and (4) in violation of the long-and-short haul (or aggregate of intermediate rates) provision of section 4 thereof. (Use one or more of the allegations numbered (1), (2), (3), (4), or other appropriate allegation according to the nature of the complaint.) That (if recovery of damages is sought) complainant has been injured thereby to his damage in the sum of $_____.

Wherefore complainant prays that defendant be required to answer to charges herein; that after due hearing and investigation an order be made commanding said defendant (and each of them) to cease and desist from the aforesaid violations of said act, and establish and put in force and apply in future to the transportation of _____ between the origin and destination points named in paragraph _____ hereof, in lieu of the rates (fares or charges, etc.), named in said paragraph, such other rates (fares or charges, etc.), as the Commission may deem reasonable and just (and also, if recovery of damages is sought, pay to complainant by way of reparation for the unlawful charges hereinbefore alleged the sum of $ _____, or such other sum, as in view of the evidence to be adduced herein, the Commission shall determine that complainant is entitled to an award of damages under the provisions of said act for violation thereof), and that such other and further order or orders be made as the Commission may consider proper in the premises.

Dated at _____, 19_____.

---

(Complainant's signature) [2]

---

(Office and post-office address)

---

(Signature of practitioner)

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(Post-office address)

VERIFICATION [2]

State of _____
County of _____

_____, being duly sworn, deposes and says: that he is the complainant (or, one of the complainants; or, is the (insert title of the affiant if complainant is a corporation) of the _____ company, complainant) in the above-entitled proceeding; that he has read the foregoing complaint, and knows the contents thereof; that the same are true as stated, except as to matters and things if any, stated on information and belief, and that as to those matters and things, he believes them to be true.

---

Subscribed in my presence, and sworn to before me, by the affiant above-named, this _____ day of _____, 19_____.

(Use an L.S. impression seal.)

---

(Title of officer)

Commission expires _____.

NO. 2 ANSWERS [4]

Before the Interstate Commerce Commission.

Answer.

Docket No. _____

---

v.

---

The above-named defendant, for answer to the complaint in this proceeding, respectively states:

I. (Here set forth appropriate and responsive admissions, denials, and averments, specifically answering the complaint paragraph by paragraph).

Wherefore defendant prays that _____

Dated _____, 19_____

---

(Name of defendant)

By [5]

---

---

(Title of Officer)

---

(Office and post-office address)

---

(Signature of Practitioner)

---

(Post-office address)

NO. 3 CERTIFICATE OF SERVICE [6]

I certify that I have this day served the foregoing document upon all parties of record in this proceeding, by (here state the precise manner of making service, which must be consistent with the provisions of Rule 20).

Dated at _____, this _____ day of _____, 19___.

---

(Signature)

NO. 4. PETITION FOR LEAVE TO INTERVENE [7] BEFORE THE INTERSTATE COMMERCE COMMISSION

Petition

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[v.]

---

(Or state other title)

Docket No. _____

Comes now your petitioner, _____, and respectfully represents that he has an interest in the matters in controversy in the above-entitled proceeding and desires to

[1] See Rules 24 to 31, inclusive.

[2] See footnote to verification.

[3] Signature and verification by complainant unnecessary if complaint is signed by a practitioner—See Rule 15.

[4] See Rules 33 to 35, inclusive.

[5] See Rule 15.

[6] See Rule 20.

[7] See Rule 71.

intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

I. That [petitioner should here state nature and place of business, and whether as corporation, firm, or partnership, etc., as in form No. 1].

II. [Petitioner should here set out specifically his position and interest in the proceeding.]

III. [If affirmative relief is sought see paragraphs III and X and prayer in form No. 1.]

Wherefore said _____ prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross examine witnesses, and be heard in person or by counsel upon brief and at the oral arguments, if oral argument is granted. [If affirmative relief is sought insert appropriate prayer here.]

Dated at _____, 19__.

[See forms No. 1 and 3 as to subscription, verification and certificate of service.]

No 5. Form of Reparation Statement Under Rule 95

Claim of _____ under decision of the Interstate Commerce Commission in Docket No. _____.

_____ Date of shipment.
_____ Date of delivery or tender of delivery.
_____ Date charges were paid.
_____ Car [8] initials.
_____ Car [8] number.
_____ Origin.
_____ Destination.
_____ Route.
_____ Commodity.
_____ Weight.
_____ Rate.
_____ Amount.
_____ Rate.
_____ Amount.
_____ Reparation on basis of Commission's decision.
_____ Charges paid by.[10]

Claimant hereby certifies that this statement includes claims only on shipments covered by the findings in the docket above-described and contains no claim for reparation previously filed with the Commission by or on behalf of claimant or, so far as claimant knows, by or on behalf of any person, in any other proceedings, except as follows: (Here indicate any exceptions, and explanation thereof).

_____
(Claimant)

[8] Substitute "Vessel" if water carrier involved.

[9] Substitute "Voyage No." if water carrier involved.

[10] Here insert name of person paying charges in the first instance, and state whether as consignor, consignee, or in what other capacity.

By _____
(Practitioner)

_____
(Address)

_____
(Date)

Total amount of reparation $_____. The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date _____ Concurred [11] in: _____ Company _____ Company, Defendant Collecting Carrier, Defendant.[12]

By _____, Auditor. By _____, Auditor.

No. 6 Verification for Statement of Fact Filed Under Modified Procedure [13]

State of _____.
County of _____.
ss:

_____ being duly sworn, deposes and says that he has read the foregoing statement, knows the facts asserted therein, and that the same are true as stated.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____.

Notary Public of _____ My Commission expires _____

No. 7. Notice of Filing of Application for Publication in Federal Register Under Section 206(a)(6) of the Interstate Commerce Act, as Amended

(See instructions)

PART I

(To be completed by applicant)

Notice is hereby given that the below named applicant has filed with _____
(Name and State Commission)
an application for a certificate to conduct motor common carrier operations in intrastate commerce; that, in connection with such operations, applicant also is seeking authority to engage in transportation in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations which may be authorized to be conducted; and that the intrastate and interstate operations proposed to be conducted are as set forth below.

1. _____,
(Name and business address of applicant)
_____
(Street) (City) (State)

2. _____,
(Name and address of applicant's representative, if any)
_____
(Street) (City) (State)

3. Describe below in full the operations proposed to be conducted in intrastate commerce, together with the extent to which applicant is seeking authority in connection with such intrastate operations to engage in transportation in interstate and foreign commerce. (If additional space is necessary, use reverse side.)

_____
(Signature)

_____
(Title)

Date _____ 19__

PART II

(To be completed by State Commission)

Date of filing application _____ Docket number assigned _____.

Date and time and place application has been assigned for hearing, if known _____

_____

_____

_____
(Signature)

_____
(Title)

_____
(Name of State Commission)

Date this notice forwarded to Interstate Commerce Commission, Washington, D.C. 20423, _____, 19__.

INSTRUCTIONS

This form is for use in giving notice to interested persons regarding the filing of intrastate motor carrier applications in connection with which the applicant also desires authority to engage in interstate and foreign commerce pursuant to section 206 (a)(6) of the Interstate Commerce Act, as amended October 15, 1962, by Pub. L. 87-805. It should be filed in duplicate (along with the intrastate application) with the State Commission, which will forward it to the Interstate Commerce Commission, Washington, D.C. 20423.

The description in Part I, item 3 should include the commodities (or passengers) sought to be transported, the points to be served, and the routes over which, or territories within which, such transportation is to be performed. Care should be taken to insure that the description, which will be published in the Federal Register, fully informs interested persons of the type and scope of the proposed intrastate operations, and the extent to which applicant desires authority to engage in transportation in interstate and foreign commerce in connection with such intrastate operations.

H. G. Homme, Jr.,
*Acting Secretary.*

[FR Doc.77-22973 Filed 8-10-77;8:45 am]

[11] For concurring certificate in case collecting carrier is not a defendant.

[12] If not a defendant, strike out the word "defendant".

[13] See Rule 48.

# 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.

## FEDERAL ENERGY ADMINISTRATION

[ 10 CFR Part 430 ]

## ENERGY CONSERVATION PROGRAM FOR APPLIANCES

### Proposed Rulemaking and Public Hearings Regarding Energy Efficiency Improvement Targets for Humidifiers, Dehumidifiers, and Central Air Conditioners

AGENCY: Federal Energy Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Administration hereby proposes energy efficiency improvement targets for humidifiers, dehumidifiers, and central air-conditioners, under the Energy Policy and Conservation Act, as amended by the Energy Conservation and Production Act. This legislation requires that energy efficiency improvement targets be prescribed for certain types of appliances. The intended effect of this proposal is to solicit public comments before these targets are prescribed.

DATES: Comments by September 12, 1977; requests to speak by September 7, 1977; statements by September 12, 1977; hearings to be held on September 14, 1977, and September 15, 1977.

ADDRESSES: Comments and requests to speak at hearing to: Executive Communications, Federal Energy Administration, Box OG, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Statements to: Regulations Management, Federal Energy Administration, Room 2214, 2000 M Street NW., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Room 307, Old Post Office Building, Federal Energy Administration, Washington, D.C. 20461 (202–566–4635).

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2222A, Washington, D.C. 20461 (202–254–5001).

Jim Merna (Media Relations), 12th and Pennsylvania Ave. NW., Room 3104, Washington, D.C. 20461 (202–566–9833).

William J. Dennison (Office of General Counsel), 12th and Pennsylvania Ave. NW., Room 7148, Washington, D.C. (202–566–9750).

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Technological Analysis.
A. Methodology for Determining Technological Feasibility.
B. Technological Analysis of Each Product Type.
III. Economic Analysis.
A. Methodology for Determining Economic Feasibility.
B. Economic Analysis of Each Product Type.
IV. Request for Particular Comments.
V. Comment Procedures.
A. Written Comments.
B. Public Hearings.
VI. Environmental and Inflationary Review.

### I. Introduction

Part B (42 U.S.C. 6291–6309) of Title III of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163), as amended by Section 161 of the Energy Conservation and Production Act (Pub. L. 94–385), requires the implementation of an energy conservation program for consumer products other than automobiles. Section 325(a) of the Act requires that the Federal Energy Administration (FEA) direct the National Bureau of Standards (NBS) to develop, and that FEA by rule prescribe, energy efficiency improvement targets for covered products, which are types of appliances specified in section 322(a) in the Act. The targets are required to be designed so as to identify the maximum improvement in the energy efficiency of appliances determined by FEA to be technologically and economically feasible by 1980. Covered products are the following types of products (including their functional equivalents):

(1) Refrigerators and refrigerator-freezers.
(2) Freezers.
(3) Dishwashers.
(4) Clothes dryers.
(5) Water heaters.
(6) Room air conditioners.
(7) Home heating equipment, not including furnaces.
(8) Television sets.
(9) Kitchen ranges and ovens.
(10) Clothes washers.
(11) Humidifiers and dehumidifiers.
(12) Central air-conditioners.
(13) Furnaces.

Targets for the product types listed in (1) through (10) above have already been proposed (42 FR 36648, July 15, 1977). This notice proposes targets for the three product types listed in (11) and (12) above. An energy efficiency improvement target for furnaces will be proposed at a later date.

Section 323 of the Act requires FEA to prescribe test procedures for covered products. The test procedures to be prescribed in Subpart B of Part 430 will be used in monitoring the progress of manufacturers toward meeting the energy efficiency improvement targets, which will be prescribed in Subpart C. The test procedures will also be used by the Federal Trade Commission (FTC) under section 324 of the Act, which requires FTC to prescribe product labeling rules designed to provide consumers with energy information which will assist them in making purchasing decisions concerning appliances.

Under section 325(a)(4) of the Act, FEA will require manufacturers of covered products to submit such reports as FEA determines may be necessary to ascertain whether the energy efficiency improvement target for a type of covered product will be met. If FEA then determines that a particular target is not likely to be met, FEA is required to commence a proceeding to prescribe an energy efficiency standard for the particular type of product or a class thereof.

These proposed targets were established by first identifying design options having a potential for improving the energy efficiency of a product type, and then analyzing those options to determine whether they were technologically feasible. The energy savings of individual technologically feasible design options were combined to provide a single target for each product, and the economic feasibility of the energy efficiency improvement targets thus derived was then evaluated.

### II. Technological Analysis

#### A. Methodology for Determining Technological Feasibility

The determination of a technologically feasible energy efficiency improvement target for a product type required a thorough analysis to identify the design characteristics of currently available products which affect their energy efficiency. The Act requires that the 1980 targets for humidifiers, dehumidifiers, and central air-conditioners be designed to achieve the maximum improvement in energy efficiency which is technologically and economically feasible. This necessitated an iterative process whereby various design improvement options and combinations of these options were studied to determine their technological feasibility, their effects on improving the efficiency of the product type, and their economic feasibility.

The design options referred to in this notice are being used to demonstrate the technological and economic feasibility

of the 1980 targets but are not intended to dictate future product design. There may be other design options or combinations of design options which could be used by a given manufacturer to achieve the 1980 energy efficiency improvement targets being proposed today, but no greater efficiency improvement is technologically and economically feasible for any product type industry as a whole.

FEA and NBS relied on the cooperation of the humidifier, dehumidifier, and central air-conditioner industries with respect to baseline energy efficiency data for these three product types. The year 1975 was used as the base year because 1975 data were found to be most readily available and easiest for the industries to assemble and submit. The data that were requested of the industries included data which described the capacities, energy efficiency performances, and production volumes for these three product types. The energy efficiency performance data were reported by the industries using test procedures similar to test procedures for humidifiers, dehumidifiers, and central air-conditioners being developed in the Energy Conservation Program for Appliances. NBS was able to adjust the industry data to reflect the efficiency performances as they would be measured by these FEA test procedures as currently proposed. If FEA's test procedures change significantly between their proposed and final forms, FEA intends to adjust the affected baseline data utilized in these targets.

Morever, compliance with recently-enacted section 32 of the Federal Energy Administration Act of 1974 (FEA Act) (15 U.S.C. 761 et seq.) will be noted in each of the final test procedures issued by FEA. Section 32, added to the FEA Act by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70), imposes a number of requirements on the Administrator when regulations issued by FEA make use of industry standards.

The technological feasibility analysis began with the identification of design options that would improve the energy efficiency of a product. Once these design options were identified, they were evaluated by NBS to determine their contribution improving the energy efficiency of the product, their impact on increased retail cost, and their impact on material usage. In order for a design option to be considered technologically feasible, it had to be an available technology that could be incorporated into production by 1980 without significant hardship. Increased materials required by the implementation of each design change had to be readily available, so that incorporation of the design change would not be limited by the lack of materials.

The contribution of each design improvement to the product's efficiency was evaluated by NBS. The increased costs were estimated using industrial engineering techniques or catalogues for those design features which already existed in the marketplace. A simple payback analysis which compared increased retail costs to operating costs savings was used by NBS as the criterion for selecting a design option for further evaluation. Where the increased cost exceeded the savings, an option was rejected. Of course, a target incorporating these options still had to meet the further economic feasibility test discussed below.

After individual technologically feasible design options were identified, combinations of design options were evaluated using the proposed FEA test procedures (and in appropriate cases, the 1975 baseline data), to determine the maximum technologically feasible energy efficiency improvement for a product type. The energy savings of each design option was then production-weighted according to the number of units which incorporated the particular design option in the base year of 1975. The energy efficiency improvement target was finally determined by dividing the percent of 1975 production-weighted energy which would be saved if the specified design options were implemented, by one minus the percent of 1975 production-weighted energy saved. Energy factors for these products were determined using the proposed FEA test procedures.

The combination of design improvement options chosen to demonstrate the technological feasibility of the 1980 targets was then subjected to an economic analysis to determine their economic feasiblity. As described in detail below, this economic feasibility analysis relied on NBS estimates of the design improvements' effects on efficiency improvement, increased retail costs, and increased material usage. The efficiency improvement targets for room humidifiers and central system humidifiers were combined by a simple weighted average aproach using their estimated 1975 energy consumption. In the same manner, the targets for split system central air-conditioners and for single package central air-conditioners were combined to derive a target for the product type as a whole.

The detailed 1980 targets are presented later in this notice. A list of design options chosen to demonstrate technological feasibility is also included. Energy factors representing average 1975 product efficiency and the 1980 target efficiency are presented. The energy factor for a product can be determined through application of the FEA test procedures.

### B. TECHNOLOGICAL ANALYSIS OF EACH PRODUCT TYPE

Each of the following proposed product-specific energy efficiency improvement targets is based on the best available information and represents FEA's judgment of the maximum efficiency that is technologically feasible, as determined by the methodology described above.

Included in each analysis is a description of the design options selected to demonstrate the technological feasibility of the proposed targets. Each discussion refers to a table that states the production-weighted energy savings of each design option selected for a particular product, as well as the estimated lead-time required before the option can be incorporated into the product. The design options identified may not encompass all the design options available to a given manufacturer for improving the energy efficiency of a particular product, but they do demonstrate the technological feasibility of the proposed energy efficiency improvement target for a particular product type.

A detailed discussion of the target determination procedure for each product is contained in a separate technical paper prepared by NBS. As provided later in this notice, each paper is available for inspection by interested persons.

#### HUMIDIFIERS

The proposed energy efficiency improvement target for humidifiers is 18 percent. To arrive at this target, the determination was made that central system humidifiers could be improved by 32 percent and that room humidifiers had no design improvements that would be economically feasible.

The central system humidifier design option that was selected to demonstrate the technological feasibility of the proposed target is an increase in the incorporation of humidistats into central system humidifiers. The production-weighted energy savings of this design option, and the estimated lead time required for its implementation, are presented in Table 1. The data in Table 2 were used in the methodology discussed above to determine the proposed energy efficiency improvement target of 18 percent for humidifiers.

TABLE 1.—*Summary of 1980 energy efficiency improvement (EEI) target calculations for central system humidifiers*

| Recommended design options | Production-weighted energy savings, percent | Lead time for implementation, years |
|---|---|---|
| 1. Shipping humidifier with a humidistat | 24 | .5 |
| 1980 energy efficiency improvement target $=\frac{24}{100-24}\times 100=32$ pct. | | |
| 1975 energy factor | 63 | |
| 1980 energy factor [1] | 83 | |

[1] 1980 energy factor $=$ 1975 energy factor $\times \frac{(100+\text{pct. EEI})}{100}$.

TABLE 2.—*Humidifier product type energy efficiency improvement target*

| | 1975 energy consumption $\times 10^{12}$ Btu | Percent of energy savings | Energy efficiency improvement target, percent | Energy factor for— 1975 | 1980 |
|---|---|---|---|---|---|
| Humidifiers | 6.61 | 15 | 18 | | |
| Room humidifiers | 2.45 | 0 | 0 | 46.4 lb/kWh. | 46.4 lb/JWh. |
| Central system humidifiers | 4.16 | 24 | 32 | 63 pct. | 83 pct. |

DEHUMIDIFIERS

The proposed energy efficiency improvement target for dehumidifiers is 28 percent. The dehumidifier design options that were selected to demonstrate the technological feasibility of the proposed target are: improving the compressor motor efficiency through the use of permanent split capacitor (PSC) motors, improving the condenser heat transfer, improving the fan motor efficiency, and installing insulation around the interchanger. The production-weighted energy savings of each design option described above for dehumidifiers and the estimated lead time required for implementation are presented in Table 3.

TABLE 3.—*Summary of 1980 energy efficiency improvement (EEI) target calculations for dehumidifiers*

| Recommended design options | Production-weighted energy savings, percent | Lead time for implementation, years |
|---|---|---|
| 1. Improve compressor motor efficiency | 10 | 2 |
| 2. Improve condenser heat transfer | 6 | 2 |
| 3. Improve fan motor efficiency | 5 | 1 |
| 4. Insulate interchanger | 2 | 1 |
| Aggregate | [a] 22 | |

1980 energy efficiency improvement target $= \frac{22}{100-22} \times 100 = 28$ pct.

1975 energy factor: 2.27 pt/kWh [b]
1980 energy factor: 2.91 pt/kWh [c]

[a] These values are not additive. Refer to the dehumidifier technical background paper.
[b] Estimated 1975 energy factor may be revised upon receipt of more definitive data.
[c] 1980 energy factor = 1975 energy factor $\times \frac{100+\text{pct. EEI}}{100}$.

CENTRAL AIR CONDITIONERS

The proposed energy efficiency improvement target for central air conditioners is 25 percent. To arrive at this target, the determination was made that split system central air conditioners could be improved by 27 percent, and single package central air conditioners by 20 percent.

The split system central air conditioner design options that were selected to demonstrate the technological feasibility of the proposed target are: Improving the condenser fan motor efficiency, improving the compressor efficiency, and improving the heat exchange efficiency. The single package central air conditioner design options that were selected to demonstrate the technological feasibility of that target are the same as for a split system central air conditioner. The different percentage increases in efficiency are due mainly to the size constraints of a single package unit.

The production-weighted energy savings of each design option described above for split system and single package central air conditioners, and the estimated lead-time required for implementation, are presented in Tables 4 and 5. The data in Table 6 were used in the methodology discussed above to determine the proposed energy efficiency improvement target of 25 percent for central air conditioners.

TABLE 4.—*Summary of 1980 energy efficiency (EEI) improvement calculations for split system central air conditioners*

| Recommended design options | Production-weighted energy savings, percent | Lead time for implementation, years |
|---|---|---|
| 1. Improve condenser fan motor efficiency | 4 | [a] 6 |
| 2. Improve compressor efficiency | 7 | 2 |
| 3. Improve heat exchange efficiency | 10 | 2 |
| Aggregate | 21 | |

1980 energy efficiency improvement target $= \frac{21}{100-21} \times 100 = 27$ pct.

1975 seasonal energy efficiency ratio (SEER): 6.6 Btu/Wh
1980 season energy efficiency ratio (SEER): 8.4 Btu/Wh [b]

[a] Months.
[b] 1980 SEER = 1975 SEER $\times \frac{100+\text{pct. EEI}}{100}$.

TABLE 5.—*Summary of 1980 energy efficiency improvement (EEI) target calculations for single package central air conditioners*

| Recommended design option | Production-weighted energy savings, percent | Lead time for implementation, years |
|---|---|---|
| 1. Improve condenser fan motor efficiency | 4 | (1) |
| 2. Improve compressor efficiency | 7 | 2 |
| 3. Improve heat exchange efficiency | 6 | 2 |
| Aggregate | 17 | |

$$1980 \text{ energy efficiency improvement target} = \frac{17}{100-17} \times 100 = 20 \text{ pct.}$$

1975 seasonal energy efficiency ratio (SEER)–6.2 Btu/Wh
1980 seasonal energy efficiency ratio (SEER)–7.5 Btu/Wh [2]

[1] Months.

[2] $1980\ SEER = 1975\ SEER \times \frac{100 + \text{pct EEI}}{100}$.

TABLE 6.—*Central air conditioners product type energy efficiency improvement target*

| | 1975 energy consumption $\times 10^{15}$ Btu | Percent of energy savings | Energy efficiency improvement target, percent | 1975 seasonal energy efficiency ratio (Btu/Wh) | 1980 seasonal energy efficiency ratio (Btu/Wh) |
|---|---|---|---|---|---|
| Central air conditioners | 18.82 | 20 | 25 | | |
| Single package central air conditioners | 3.01 | 17 | 20 | 6.2 | 7.5 |
| Split system central air conditioners | 15.8 | 21 | 27 | 6.6 | 8.4 |

## III. ECONOMIC ANALYSIS

### A. METHODOLOGY FOR DETERMINING ECONOMIC FEASIBILITY

The economic feasibility analysis of today's proposal is complex because the analysis touches upon a vast array of demand-supply relationships which affect consumers not only in their purchasing decisions but also in their daily use of appliances. In performing the analysis, a comprehensive methodology for examining all significant and relevant economic effects was used in order to insure that the proposed targets maximize benefits, especially in the area of energy conservation, while minimizing any adverse consequences.

The analytical procedures used both to project trends and to quantify economic factors consisted of the application of econometrics, statistics and other mathematical methods. In assessing the role of consumer products within the economy, a micro-economic analysis was relied upon, as much as possible, to project trends and simulate changes which the proposed targets might induce. However, where either the lack of data or limited model structure prevented strict adherence to econometrics, the expertise of FEA played a large role.

Most economic factors are quantified in terms of 1980 prices and quantities because 1980 is the year in which impacts of the targets will generally first occur. The projection of prices and quantities in 1980 relies upon a combination of analytical procedures. One essential feature of these procedures is that the outcome, both for energy savings and for cost-benefit impacts, is not significantly altered by variance around these projections. The forecast of shipments, price and other economic factors relating to 1980 provides a base case for quantifying possible impacts. If these projections were to shift, the quantified impacts for various costs and benefits would shift in a proportional manner. For example, variations in projected 1980 sales yield similar net benefits for consumers with negligible impact on long-term energy trends.

Various data sources were used in quantifying economic factors and in the analysis of economic possibilities. Primary data sources were Federal Government publications, including the Census of Manufacturers (U.S. Bureau of the Census, Industry Series, 1975) and Current Industrial Reports (U.S. Bureau of the Census, 1973), together with private sector publications, such as Appliance Manufacturer (Dana Chase Publications, Inc., 1975–77) and Merchandising Week (Billboard Publication, Inc., 1972–77). Another source of data was testimony submitted at May and June 1976 hearings on Subpart C as previously proposed (41 FR 19977, May 14, 1976), as well as the written comments received in response to that proposal.

The methodology consists of establishing a test of economic feasibility, and conducting a four-stage analysis which quantifies all relevant economic factors. Use of this methodology by FEA should not preclude interested parties from suggesting the use of different methodologies, but such suggestions should include a clearly defined methodology along with verified quantifications. Presentations from respondents are encouraged, since a thorough understanding of all relevant economic factors is necessary in prescribing economically feasible targets for consumer products.

A proposed energy efficient improvement target for a particular consumer product is economically feasible when:

1. Appropriate economic resources are available for production and shipment of the more energy-efficient consumer product, and

2. Either benefits exceed costs of implementing the proposed targets, or negative impacts are not of substantial consequence.

Economic resources are considered available when manufacturers can obtain necessary scarce or imported materials to implement energy efficiency improvements, and can secure sufficient capital to finance the required investment in plant and equipment, and to finance other costs, including materials. In addition, when costs of implementing and utilizing more energy-efficient consumer products are outweighed by the dollar value of benefits, the target is considered to be economically feasible. Where, however, costs exceed benefits, and both energy savings are substantial and economic impact on overall economic trends is not of substantial consequence, then the proposed target remains economically feasible. An economic impact is not of substantial consequence when it does not alter a reasonable projected path of stable growth by an appreciable margin in a manner which causes undue stress or burden to some sector of the economy.

FEA applied this test to each type of product. The first criterion of the test, which involves an examination of scarce material supply and investment requirements, is analyzed in stage two of the analysis. The second criterion, which involves the quantification of costs and benefits associated with proposed targets, is analyzed in stages three and four of the analysis, where effects on employment, production, prices, demand, energy, investment and market structure are also quantified. The first stage of the analysis relates energy saving design options to basic economic factors upon which the other stages depend.

#### *Stage 1—Integration of Design Options with Economic Impacts*

Certain technological engineering factors are accepted as given for the purpose of the economic analysis. These technological factors include the set of design options discussed in Part II above, with corresponding material requirements and resulting energy efficient improvements for each consumer product. The economic analysis derives a cost estimate for implementing each design option by pricing required materials along with costs for labor and overhead when these are considered important elements in the redesign. The energy savings attributable to the individual design options, and their costs, are combined so as to account for any overlapping energy savings, in order to arrive at an overall energy improvement and total cost increase. The increase in total cost is then translated into an increase in purchase price. Evidence of current price differentials for products already incor-

porating energy efficient design options was used where appropriate. In this manner, the price increase per unit is directly linked to technological design options and energy efficiency improvements.

The per unit price increase is further adjusted in two ways. First, the per unit price increase is production-weighted, as are energy efficiency improvements, according to 1975 and 1980 shipment characteristics. For each consumer product, the percentage of 1975 shipments incorporting a particular design option is subtracted from the projected percentage of 1980 shipments incorporating the same design option, resulting in the percentage increase in products marketed with a specific design option in 1980 over 1975. This net increase in production of improved products between base period and target date is multiplied by the appropriate design option price increase, yielding a production weighted price increase by design option. The production-weighted price increase for each design option is summed for all design options to arrive at a production-weighted price increase for the consumer product.

The second adjustment is the calculation of the production-weighted price increase expressed in 1980 prices. Because recent available retail prices were most often 1975 prices, a price increase rate of about 3 percent per year, compounding to 15.9 percent, was used to convert 1975 prices to 1980 prices. An annual price rise of 3 percent is in line with past consumer product price trends.

Projected unimproved consumer product prices multiplied by base-case projected 1980 shipments yields an initial unimproved purchase cost that is compared to the increased purchase cost of improved products for evaluating the impact on demand and supply relationships.

*Stage II—Availability of Economic Resources*

This stage of the analysis evaluates the sufficiency of economic resources, including materials and capital, to permit the manufacture and shipment of the more energy-efficient consumer products. The particular investment requirements described in this evaluation are not meant to prescribe for manufacturers a necessary investment or financial procedure. Although particular manufacturing and financial factors are presented along with their impacts, the purpose of this analysis is only to demonstrate one economically feasible approach in the achievement of the proposed energy targets.

This evaluation relies essentially upon the given technological factors to define material requirements. Each design option is related to the number of pounds of material per unit. Per unit material requirements are aggregated by using production-weighted percentages such as were used for price increases. The total change in each material resulting from the incorporation of a particular design option is the product of the number of projected 1980 shipments and the production-weighted material change for each unit. Total material changes are expressed as a percent of the total U.S. production of each material in order to assess the potential impact. If the impact is judged to be nonsignificant then the material is considered to be an available economic resource.

Investment requirements are also analyzed in stage two. First, investment requirements are estimated for a typical size manufacturing firm. A typical size firm is considered to be one which has a market share equal to or greater than the average market share of all firms manufacturing the product. The necessary investment resources are considered to be available if the financial status of a typical firm manufacturing the particular product is adequate to undertake the investment. Second, the availability of sufficient funds for the entire industry is evaluated by aggregating the investment requirements of all firms in the industry. The aggregation of investment at the industry level is calculated by multiplying the investment required by a typical firm times the number of firms estimated to account for a major portion of the market wherever possible. The additional investment for the industry is compared to recent investment trends by the industry itself to assess the possible burden. Also, the availability of funds in the financial market is evaluated by contrasting the additional industry needs with manufacturers' performance in terms of growth and profitability. If the financial position of manufacturers of a consumer product is adequate to obtain necessary funds, then the investment requirements are considered to be available.

*Stage III—Cost Benefit Tradeoffs and Energy Consumption*

This stage of the analysis examines the cost-benefit tradeoff confronting consumers of household appliances, along with corresponding energy savings. The tradeoff is essentially a measurement of net life cycle benefits from the perspectives of both an individual purchase and all household sector purchases. These purchase decisions determine net energy savings, which are quantified by comparing the reduced energy consumption in the normal operation of the product and the possibly greater amount of energy consumed in the manufacture of a more efficient product.

First, costs and benefits to the household sector are evaluated. Net life cycle benefits are derived both for individual purchases of a more energy-efficient product and for total consumer purchases by product. The premise underlying both perspectives is that a more energy-efficient consumer product typically sells for a higher price but operates at a lower cost, since less energy is required to perform the same task. Future dollar savings from lower operating costs are accumulated over the life of the product and expressed in present dollars by discounting future dollar flows. The discounting formula is based on a 10 percent interest rate and an engineering estimate of product life. In this manner, the current value of future operating savings can be compared, dollar for dollar, with the increase in purchase price of the more energy-efficient product.

The present value of the benefit derived from life cycle operating savings is reduced by the increase in initial purchase price to determine net life cycle benefits. The present value of net life cycle benefits for individual purchasers is aggregated by using a projection of 1980 shipments by product. The 1980 shipment projection is assumed to equal all household purchases and provides the basis for quantifying reduced energy consumption, household savings and increased expenditures resulting from the household sector purchase and use of more efficient products which sell at a higher price but operate at a lower energy cost.

However, total energy savings is even greater than the amount of reduced consumption by the household sector. Reduced energy consumption is measured first at household end use in kilowatt-hours and second at utility plants in Btu's. The measurement of energy consumed by the utility is the actual energy content of fuel consumed in order ultimately to operate the consumer product in the home. The energy content of fuel delivered to the utility plant is about three times the delivered energy to the household due to losses of energy in generation and transmission. A conversion factor of 10,600 Btu's/kWh (FEA conversion factor) is used to convert household energy in kWh's into energy expended by the utility plant in Btu's. For each kWh, which is equivalent to 3412 Btu's, saved by the household, approximately 10,600 Btu's are saved by the utility.

The measurement of energy consumed by the utility is further converted into barrels of crude petroleum by using a conversion factor of 5.6 million Btu's per barrel. However, simply because reduced energy consumption is equivalently measured in quantity of crude petroleum, this does not imply that either imports or domestic production of petroleum will decline by a similar amount, since only about 20.0 percent of energy supplied to utilities is in the form of petroleum fuel. But overall reduction in household energy consumption will proportionately make available for more productive uses supplies of petroleum, coal, and natural gas, especially in industry.

*Stage IV—Assessment of Negative Impact*

The last stage of the analysis qualifies impacts within and between household and manufacturing sectors. This stage is primarily an evaluation of possible substantial negative impacts but, where appropriate, costs are offset by benefits. The analysis examines the potential impact of shifts in household demand on

production and employment. Other areas of potential negative impacts include industry structure and income groups.

The purpose of this stage is to examine, for each of the consumer products, changes in demand-supply relationships in terms of economic feasibility. The study of the interaction of demand-supply relationships within and between the household and manufacturing sectors yields costs, benefits, and impacts of energy efficiency targets. The extent to which costs, benefits and impacts vary depends essentially upon two factors:

1. The extent to which manufacturing costs, including substituted materials, new investment in plant and equipment and additional financing costs, increase purchase price.

2. The degree to which household demand for consumer products varies with respect to higher prices on the one hand but lower operating costs on the other.

The higher the manufacturing cost requirements to implement proposed targets, the greater the negative impact from higher prices on household demand, employment, production, inflation, and market structure. Negative impacts are, however, viewed in relative terms since, although they may be significant, such impacts may also be outweighed by favorable benefits consisting of either reduced energy consumption on the demand side or innovative manufacturing techniques on the supply side. In contrast, the lower the manufacturing cost requirements, the greater the opportunity for energy savings, enhanced household purchasing power, and negligible negative impacts.

This fourth stage of the analysis initially evaluates the possible changes in aggregate demand along with the resulting impact on production, employment, and market structure. The analysis examines possible deviations from the 1980 base case shipment projection in order to assess possible substantial negative impacts resulting from the achievement of the proposed energy efficiency targets. The 1980 base case projection of shipments and purchases was used as the most reasonable basis and best approximation for quantifying material and energy impacts along with life cycle benefits discussed in stages two and three. Thus, even though possible negative impacts might cause a deviation around the base case projection, the previously quantified impacts would not be substantially altered. The reasonableness of using 1980 base case projections in stages two and three stems, in part, from an assumption that between 1975 and 1980 manufacturers will have introduced higher-priced, more efficient products in a progressive manner so that households are not suddenly faced with a one time jump in prices of more energy-efficient products in 1980. If this assumption holds true, the negative impacts would not be of material consequence because they would be spread over a number of years and in essence diluted by other economic factors.

However, in order to measure the possibility of more substantial negative impacts, this methodology in stage four further analyzes an alternative case in which households react to a sudden jump in 1980 prices of more energy-efficient products. The extent to which demand shifts in response to a sudden jump in prices is subject to continuing fluctuation as the relative prices of purchasing and operating the product change, along with changes in awareness and perception of future price trends. For these reasons, a plausible maximum-minimum range of household response to higher prices is presented. For example, where rational consumers compare life cycle operating savings to increased purchase price and the positive impact from operating savings outweighs the negative impact from higher purchase price then demand could, in fact, exceed the 1980 base case projections. Where life cycle operating savings are ignored, however, demand could fall below the base case projection. It is these two plausible consumer perceptions which are described in the maximum-minimum range.

FEA has determined that the minimum negative impact is the most plausible case for several reasons. First, the quantification of shifts in both demand and employment does not fully consider the positive effect that a successful consumer education and labeling program might have on increasing consumer preference for low energy usage products with the ultimate effect of outweighing the negative effects of purchase price elasticity. Also, recent structural changes in consumer preferences between purchase price and operating cost have not been given appropriate weighing since time series used in this analysis of relative price elasticities primarily reflect attitudes before the 1973 energy crisis. On this basis, it is concluded that any fall in demand with attendant employee layoffs may approach the minimum negative impact but would be temporary (probably less than one year).

In order to examine the responsiveness of households to higher-priced, more energy-efficient products, a demand function was developed for each of the consumer products. Historical time series were relied upon to quantify changes in household purchases with respect to changes in product prices, energy prices, real income, housing starts, household stock and other relevant economic factors. These equations, correlated in logarithmic form, measure the responsiveness between quantity purchased as it relates to product purchase price on the one hand and quantity purchased as it relates to energy usage price on the other. Correlation analysis of the logarithm of quantity purchased (the dependent variable) together with the logarithm of purchase price, energy price, and other related parameters yields coefficients which are the pertinent elasticities. The two key elasticities are purchase price and energy price.

A product price elasticity of one indicates that for every 1 percent increase in product purchase price, quantity purchased declines by 1 percent. If product purchase price elasticity is less than one, then a 1 percent increase in product purchase price generates something less than a 1 percent decrease in quantity purchased. If price elasticity is greater than one, however, then a 1 percent increase in product purchase price generates something greater than a 1 percent decrease in quantity purchased.

The relationship between the number of units purchased and operating cost elasticity of a particular product is the reverse of the demand elasticity. It is assumed that energy price elasticity derived from regression analysis is similar to operating cost elasticity. Large savings in operating costs are directly correlated with lower energy prices. For an energy price (or operating cost) elasticity greater than one, a reduction in the operating cost of a particular product will result in a greater increase in the quantity purchased than would result if the energy price elasticity were one or less. The lower the energy usage price elasticity (less than one), the less will be the positive effect of increased efficiency on the quantity purchased. The positive effect on quantity purchased due to operating savings, and the negative effect on quantity purchased due to higher prices, are netted to derive a corresponding increase or decrease in quantity purchased by households.

The impact of shifting household demand on employment is the direct consequence of a net increase or decrease in quantity purchased. The net change in quantity purchased is expressed as a percent of 1980 projections of sales. The percent increase or decrease in quantity purchased is assumed to equal the corresponding percent increase or decrease in direct employment. This is an assumption based on available information. Direct employment is the number of production workers in the appropriate industry. If the industry SIC category of production workers according to Bureau of Census Standard Industrial Codes does not match the consumer product being evaluated, then the ratio of dollar value of shipments of a consumer product to shipments of the SIC industry as a whole is used to apportion industry production workers to correspond to consumer production classification.

Two other concerns which are examined in terms of potential negative impact are industry structure and income groups. With respect to industry structure, typical size firms are compared to smaller firms in order to evaluate possible bias against smaller firms. Smaller firms are examined in light of their cost structure and market share. If the investment requirements or other factors do not appear to cause substantial shifts in industry structure, then the negative impact on small firms is not considered to be of substantial consequence.

With respect to income groups, the burden on lower income purchasers is examined for possible unfavorable bias.

If the percentage increase in purchase price for lower income groups does not appear to exceed that for higher income groups by a significant amount, then the negative impact is not considered to be of substantial consequence.

B. ECONOMIC ANALYSIS OF EACH PRODUCT TYPE

The proposed energy efficiency improvement target for each product type is the maximum improvement which FEA has determined to be technologically and economically feasible. The determination of economic feasibility of each proposed target is the result of an economic analysis which is consistent with the methodology presented above. Summaries of the economic analyses performed with respect to humidifiers, dehumidifiers, and central air conditioners are presented in this notice. The entire analyses are available for inspection by interested persons, as provided for later in this notice. The format of the analyses as well as of the summaries of the analyses is as follows:

*Stage I*—The cost of implementing each design option, with the attendant energy improvement, is cumulated to a total price increase. The total per-unit price increase yields a production-weighted price increase in current prices and in 1980 prices.

*Stage II*—Both scarce materials and investment funds are analysed to determine whether they are available in quantities sufficient to permit the implementation of the proposed target.

The scarce materials primarily affected by a proposed target are stated, and the change in demand is quantified and given as a percent of the U.S. total. It is then determined whether the respective industries can meet demand shifts without limiting domestic supplies or significantly increasing imports.

A determination is made whether profitability and growth of the major manufacturers are adequate to finance total industry investment, and amounts per firm are stated for research and development along with capital costs. Investment requirement per firm is the cumulative cost of each design option based in part on the May and June 1976 testimony and comments.

*Stage III*—Costs are exceeded by benefits to the household sector in the purchase and use of higher-priced, more efficient products, resulting in each case in measureable energy savings.

The purchase of projected 1980 shipments complying with the proposed target initially is more expensive for consumers, but lower life cycle operating costs for each product yield a net benefit to the consumer, calculated on a present value basis.

Achievement of the proposed operating efficiency for projected 1980 shipments results in an annual energy savings expressed in kWh's, which is then expressed in equivalent Btu's of utility energy supply. Total energy savings of these 1980 shipments is then aggregated in kWh's or Btu's over the life of an average product.

*Stage IV*—Negative impacts resulting from implementation of the proposed targets are then evaluated on the basis of available information to determine whether they are of substantial consequence.

Negative impact on demand, production and employment is examined with respect to the 1980 base case projection. The minimum negative impact is judged to be the most plausible case since it most probably reflects recent and future consumer perceptions.

Possible shifts in industry market structure which might threaten the existence of small firms is examined.

The effect upon the lowest income quartile is examined to consider whether that quartile would pay a proportionately larger price increase for more efficient products.

*Humidifiers.* FEA, in a manner consistent with the methodology presented above, has determined that the proposed energy efficiency improvement target of 18 percent for humidifiers is the maximum improvement which is technologically and economically feasible. A summary of economic findings for humidifiers follows:

*Stage I*—The total price increase resulting from implementation of the selected design option is $25.00 per unit, which yields a production-weighted price increase of $3.50 in current prices and $4.06 in 1980 prices.

*Stage II*—Both scarce material supplies and investment funds are available in quantities sufficient to permit the implementation of the proposed target for humidifiers.

A negligible amount of scarce materials is affected by the proposed target. The respective industries can meet demand shifts without limiting domestic supplies or significantly increasing imports.

Profitability and growth of the major manufacturers is adequate to finance the total industry investment of $81 thousand, which amounts to almost $12 thousand per firm in additional research and development along with capital costs. The investment requirement per firm is the cost of the one suggested design option, which would ordinarily be purchased from a subcontractor and which would require only storage space by humidifier manufacturers. Alternative investment required to produce an amount of energy equivalent to that which will be saved by the design option is $5.2 million.

*Stage III*—Costs are exceeded by benefits to the household sector in the purchase and use of higher-priced, more efficient humidifiers, resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 1.85 million humidifiers complying with the proposed target initially costs households an additional $7 million but lowers life cycle operating costs by $103 million, yielding a net benefit of $96 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments results in energy savings of almost 341 million kWh's annually, which is equivalent to about 3.60 trillion Btu's of utility energy supply. Total energy savings of these 1980 shipments is more than 3.4 billion kWh's or 3.60 trillion Btu's over the 10-year life of an average humidifier.

*Stage IV*—Negative impacts resulting from implementation of the proposed humidifier target are not of substantial consequence.

Demand in 1980 might reasonably increase by 7.9 percent, or 139,000 humidifiers, because of a higher rate of replacement of older humidifiers with more efficient products.

Employment might temporarily increase by approximately 600 production workers, or about 7.9 percent of humidifier employment, in response to higher demand.

The threat of shifts in industry market structure which might affect the existence of small firms apparently does not exist for humidifier manufacturers, because at least half the total market share is held by eleven sizeable firms, which by their adoption of the one design option would more than exceed the 86% market saturation (up from 72% in 1975) necessary to achieve the 1980 target. Due to the small amount of investment involved, small firms could also choose to implement the suggested design option, if this course would be to their competitive advantage.

The lowest income quartile may be negatively affected by paying a proportionately large price increase for more efficient humidifiers, but available information (Selected Data from 1973 and 1974 Surveys of Purchases and Ownership, U.S. Bureau of the Census, 1976) suggests that this impact is not of substantial consequence.

*Dehumidifiers.* FEA, in a manner consistent with the methodology presented above, has determined that the proposed energy efficiency improvement target of 28 percent for dehumidifiers is the maximum improvement which is technologically and economically feasible. A summary of economic findings for dehumidifiers follows:

*Stage I*—The total price increase resulting from implementation of the selected design options is $34.00 per unit, which yields a production-weighted price increase of $34.00 in 1975 prices and $39.40 in 1980 prices.

*Stage II*—The scarce material supplies and investment funds are available in quantities sufficient to permit the implementation of the proposed target for dehumidifiers.

The scarce materials primarily affected by the proposed target are aluminum, for which demand increases by 750 tons, and fiberglass, for which demand increases by 50 tons. Both of these material changes are a negligible percent of the total U.S. production, so that the respective industries can meet demand shifts without limiting domestic supplies or significantly increasing imports.

Profitability and growth of the major manufacturers is adequate to finance

total industry investment of $212 thousand, which amounts to slightly more than $42 thousand per firm in additional research and development along with capital costs. The investment requirement per firm is the cumulative cost of each design option. Alternative investment required to produce an amount of energy equivalent to that which will be saved by the design options is $1.3 million.

*Stage III*—Costs are exceeded by benefits to the household sector in the purchase and use of higher-priced, more efficient dehumidifiers, resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 500,000 dehumidifiers complying with the proposed target initially costs households an additional $20 million but lowers life cycle operating costs by $27 million, yielding a net benefit of $7 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments results in energy savings of almost 83 million kWh's annually, which is equivalent to almost .9 trillion Btu's of utility energy supply. Total energy savings of these 1980 shipments is almost 908 million kWh's or almost 10 trillion Btu's over the 11-year life of an average dehumidifier.

*Stage IV*—Negative impacts resulting from implementation of the proposed dehumidifier target are not of substantial consequence.

Demand in 1980 might reasonably increase by 30.8 percent, or 154,000 dehumidifiers, because of a higher rate of replacement of older dehumidifiers with more efficient products.

Employment might temporarily increase by approximately 188 production workers, or about 30.8 percent of dehumidifier employment, in response to higher demand.

The threat of shifts in industry market structure which might affect the existence of small firms apparently does not exist for dehumidifier manufacturers, because at least half of total market share is held by five sizeable firms, with the bulk of the remaining portion of market share made up of subsidiaries of multi-product corporations of considerable size.

The lowest income quartile may be negatively affected by paying a proportionately larger price increase for more efficient dehumidifiers, but the information cited above suggests that this impact is not of substantial consequence.

*Central Air Conditioners.* FEA, in a manner consistent with the methodology presented above, has determined that the proposed energy efficiency improvement target of 25 percent for central air conditioners is the maximum improvement which is technologically and economically feasible. A summary of economic findings for central air conditioners follows:

*Stage I*—The total price increase resulting from implementation of the selected design options is $73.60 per unit, which yields a production-weighted price increase also of $73.60 in current prices and $85.30 in 1980 prices.

*Stage II*—Both scarce material supplies and investment funds are available in quantities sufficient to permit the implementation of the proposed target for central air conditioners.

The scarce material primarily affected by the proposed target is aluminum, for which demand increases by about 7700 tons, or 0.2 percent of the total U.S. production. The aluminum industry can meet the demand shift without limiting domestic supplies or significantly increasing imports.

Profitability and growth of the major manufacturers is adequate to finance the total industry investment of $1.2 million, which amounts to about $120 thousand per firm in additional research and development along with capital costs. Investment requirement per firm is the cumulative cost for each design option based in part on May–June 1976 testimony and comments by the room air conditioner and refrigerator industries, which utilize design options similar to those proposed for central air conditioners. Alternative investment required to produce an amount of energy equivalent to that which will be saved by the design options is $52.8 million.

*Stage III*—Costs are exceeded by benefits to the household sector in the purchase and use of higher-priced, more efficient central air conditioners, resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 1.7 million central air conditioners complying with the proposed target initially costs households an additional $145 million but lowers life cycle operating costs by $600 million, yielding a net benefit of $455 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments resulted in an annual energy savings of 1.8 billion kWh's, which is equivalent to 19 trillion Btu's of utility energy supply. Total energy savings of these 1980 shipments is 22 billion kWh's, or 229 trillion Btu's, over the 12-year life of an average central air conditioner.

*Stage IV*—Negative impacts resulting from implementation of the proposed central air conditioner target are not of substantial consequence.

Demand in 1980 might reasonably decline by 6.9 percent, or 117 thousand central air conditioners, because of the higher purchase price of more efficient products.

Employment might temporarily decline by approximately 900 production workers, or about 7.0 percent of central air conditioner employment, in response to lower demand.

The threat of shifts in industry market structure which might affect the existence of small firms apparently does not exist for central air conditioner manufacturers, since 83 percent of total market share is held by 10 sizeable firms, with the remaining seventeen percent essentially held by either imports or subsidiaries of multiproduct corporations of considerable size.

The lowest income quartile as a whole will not be significantly affected by paying a proportionately higher price for more efficient central air conditioners, because the information cited above suggests that lower income groups buy only a small percentage of the total central air conditioners manufactured.

## IV. Request for Particular Comments

While FEA is soliciting comments on all aspects of these proposed energy efficiency improvement targets, FEA is particularly interested in receiving comments on the following matters:

1. Information relating to the number of central system humidifiers shipped with humidistats, and the number shipped without humidistats.
2. Information relating to the number of consumers who install humidistats on central system humidifiers shipped without humidistats.
3. Information relating to the savings resulting from the installation of humidistats on central system humidifiers shipped without humidistats.

In addition, FEA is interested in receiving comments on all definitions previously promulgated or proposed in section 430.2 as these provisions might affect the efficiency improvement targets. Comments with respect to efficiency improvement targets regarding provisions in previously promulgated or proposed section 430.2 are timely until the close of the written record. It is expected that definitions for each of the product types will be finalized before the prescription of targets.

For the convenience of the reviewer, the proposed definitions directly related to the efficiency improvement targets are as follows:

"Central system humidifier" means a consumer product designed for the purpose of adding moisture into the air stream of a heating system (42 FR 27944, June 1, 1977).

"Humidifier" means a central system humidifier or a room humidifier (42 FR 27944, June 1, 1977).

"Room humidifier" means a consumer product designed for the purpose of adding moisture directly to the air proximate to such humidifier without requiring connection to a separate system for heating, distributing, or otherwise treating circulated air (42 FR 27944, June 1, 1977).

"Dehumidifier" means a self-contained, electrically-powered, mechanically-refrigerated consumer product designed to decrease the moisture content of air in an enclosed space to a specified level; it has a refrigerated surface (evaporator) onto which some moisture from the air condenses, a refrigerating system that includes an electric motor, a fan for circulating air, and a drainage arrangement for collecting and/or disposing of the condensation (42 FR 27954, June 1, 1977).

"Central air conditioner" means a consumer appliance which is powered by single phase electric current, which consists of a compressor and an air cooled condenser assembly and an evaporator

or cooling coil, which is designed to provide air cooling, dehumidifying, circulating, and air cleaning, and which is rated below 65,000 Btu/hour (42 FR 30404, June 14, 1977).

"Single package unit" means any central air conditioner in which all the major assemblies are enclosed in one system. (42 FR 30405, June 14, 1977).

"Split system" means any central air conditioner in which one or more of the major assemblies are separated from the others. (42 FR 30405, June 14, 1977).

## V. Comment Procedures

### A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed energy efficiency improvement targets set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box OG, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Proposed Efficiency Improvement Targets" and should also designate the appliance type to which the comments apply. Fifteen copies should be submitted. All comments received by September 12, 1977, before 4:30 p.m., e.d.t., and all other relevant information will be considered by FEA before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

### B. Public Hearings

1. *Request Procedures.* Public hearings in this proceeding will be held beginning at 9:30 a.m. on September 14, 1977, in Room 2105, 2000 M Street NW., Washington, D.C. 20461, in order to receive comments from interested persons on the matters set forth herein. The schedule for such hearings is as follows:

Humidifiers: September 14, 1977, 9:30 a.m.
Dehumidifiers: September 14, 1977, 1:30 p.m.
Central Air Conditioners: September 15, 1977, 9:30 a.m.

Any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, may request in writing an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble, and must be received before 4:30 p.m., e.d.t., on September 7, 1977. Such a request may be hand-delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Proposed Efficiency Improvement Targets" and should state for which hearing or hearings the request is made.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where he or she may be contacted through September 14, 1977. Each person selected to be heard will be so notified by FEA before 4:30 p.m., September 9, 1977, and must submit 50 copies of his or her statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at (202) 254-3345.

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

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Except as provided below, questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested persons may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, Box OG, FEA, before 4:30 p.m., e.d.t., September 12, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. Any decision made by FEA with respect to the subject matter of the hearings will be based on all information available to FEA.

Further questioning will be permitted by FEA pursuant to section 336(a)(1)(B) of the Act. Any interested person will have the opportunity to question (1) other interested persons who have made oral presentations, and (2) employees of the United States who have made written or oral presentations, with respect to disputed issues of material fact. Such an opportunity will be afforded to the extent FEA determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of the issues of material fact. Such opportunity with regard to oral presentations of interested persons and employees of the United States, will be provided at the public hearing. If this opportunity alone is insufficient or inconvenient for any interested person and/or employee, FEA will consider affording an additional opportunity for questioning at a convenient time. An opportunity to question employees of the United States who have made written presentations may be availed of by submission of written questions which must be received by Executive Communications, Box OG, FEA, by September 26, 1977. Questions must pertain to disputed issues of material fact regarding the target which is the subject of the hearing.

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

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. Technical and economic papers related to today's proposal will also be available for inspection by interested persons at the FEA Freedom of Information Office.

In addition to the information available at the Freedom of Information Office, FEA will make available background materials concerning the assumptions and data which were used in the analysis of economic feasibility. These background materials are classified by product and by fuel type, and are available to any person who submits a written request to James A. Smith, Room 307, Old Post Office Building, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

## VI. Environmental and Inflationary Review

As required in section 7(c)(2) of the FEA Act, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires that FEA review Agency proposals to determine whether they constitute "major Federal actions significantly affecting the quality of the human environment" within the meaning of section 102(2)(c) of that Act. Since the targets proposed today are voluntary, compliance with these targets is a voluntary private action. This type of compliance is not a "Federal action" within the meaning of the statutory language. Since any compliance with the targets is entirely at the initiative of affected manufacturers and not FEA, it is virtually impossible for FEA to undertake meaningful analysis of the nature or scope of any environmental effects which might indirectly flow from the targets. Moreover, the goal of these targets is to induce reductions in energy consumption, as well as the environmental residuals of energy consumption

and, thus, to improve environmental quality. On this basis, FEA has determined that, with respect to prescribing efficiency improvement targets under the conservation program for appliances, no environmental impact statement is required.

These proposed targets have been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A107, and the targets for humidifiers and dehumidifiers have been determined not to be major proposals requiring evaluation of their economic impact as provided for therein. The target for central air conditioners has been determined to be a major proposal, but only on the assumption that manufacturers will in fact implement the measures which the economic feasibility analysis has found to be reasonable and achievable and that, therefore, they will fully comply with the target. The target, however, is voluntary in nature and since FEA cannot predict the actual degree of compliance it cannot, accordingly, predict the target's actual economic impact. An economic impact evaluation, based upon the assumptions contained in the economic feasibility analysis rather than on actual economic impact, has been completed and is available for public review, as provided above.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 F.R. 23185.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below:

Issued in Washington, D.C. August 4, 1977.

ERIC J. FYGI,
*Acting General Counsel,*
*Federal Energy Administration.*

1. Section 430.32 is amended by adding paragraphs (k), (l), and (m), to read as follows:

**§ 430.32 Energy efficiency improvement targets.**

* * * * *

(k) The energy efficiency improvement target for humidifiers shall be an 18 percent increase in energy efficiency for the total number of humidifiers manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of humidifiers manufactured by all manufacturers in calendar year 1975.

(l) The energy efficiency improvement target for dehumidifiers shall be a 28 percent increase in energy efficiency for the total number of dehumidifiers manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of dehumidifiers manufactured by all manufacturers in calendar year 1975.

(m) The energy efficiency improvement target for central air conditioners shall be a 25 percent increase in energy efficiency for the total number of central air conditioners manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of central air conditioners manufactured by all manufacturers in calendar year 1975.

[FR Doc.77-22966 Filed 8-10-77;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[ 14 CFR Part 71 ]

[Airspace Docket No. 77-GL-24]

### TRANSITION AREA

### Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace, a transition area, near Caledonia, Minnesota, to accommodate a new instrument approach procedure to the Houston County Airport.

DATES: Comments must be received on or before September 11, 1977.

ADDRESSES: Send comments on the proposal to FAA Regional Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 77-GL-24, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The circumstance which created this action was a request from the Belvedere Airport officials to provide that facility with instrument approach capability. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for these procedures may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

#### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 77-GL-24, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before September 11, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

#### AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

#### THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700-foot controlled airspace transition area near Caledonia, Minnesota, Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

#### DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedure Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

#### THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (42 FR 440), the following transition area is added:

CALEDONIA, MINNESOTA

That airspace extending upward from 700 feet above the surface within a 5 (statute) mile radius of the Houston County Airport (latitude 43°35'48" N, longitude 91°30'15" W) and within 2 miles each side of the 185° (true) radial of the Nodine VORTAC extending from the 5-mile radius to 6 miles north of the airport and within 3 miles either side of 133° (true) bearing of the Caledonia NDB extending from the 5-mile radius to 8.5 miles southeast of the airport, excluding that portion which has been previously designated for the LaCrosse, Wisconsin, airport.

This amendment is proposed under the authority of section 307(a), Federal

Aviation Act of 1958 (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.81 of the Federal Aviation Regulations (14 CFR 11.61)

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 Des Plaines, Ill., on August 1, 1977.

JOHN M. CYROCKI,
*Director,*
*Great Lakes Region.*

[FR Doc.77-23007 Filed 8-10-77;8:45 am]

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## [ 14 CFR Parts 71, 75 ]

[Airspace Docket No. 77-GL-23]

## FEDERAL AIRWAYS AND JET ROUTES

### Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proopses to extend three Federal airways and one jet route identified as V-148, V-345, V-224 and J-89 and to modify a segment of Federal Airway V-177. A review of the airway structure in the vicinity of Duluth, Minn., indicated a need for several changes in the airways and jet route structures. These proposed actions provide for the safe and efficient use of the navigable airspace.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Great Lakes Region, Attention: Chief, Air Traffic Division, Docket No. 77-GL-23, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

#### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffice Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

#### AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

#### THE PROPOSAL

The FAA is considering amendments to Subpart C of Part 71 and Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to extend three federal airways and one jet route identified as V-148, V-345, V-224 and J-89 and to modify a segment of Federal Airway V-177 between Wausau, Wis., and Duluth, Minn. These proposed actions would: (1) Extend V-148 from over Minneapolis, Minn., VOR direct to Hayward, Wis., TVOR direct to the Ironwood, Mich., VOR. This action would provide a nonradar route between Minneapolis, Minn., and Ironwood, Mich.; (2) extend V-345 from over Eau Claire, Wis., VOR via the 357°(M) radial and the Hayward, Wis., TVOR 178°(M) radial to the Hayward TVOR, direct to the Ashland, Wis., TVOR. This action would provide a nonradar route between Eau Claire and Ashland, Wis.; (3) extend V-224 from over Rhinelander, Wis., VOR direct to Marquette, Mich., VOR. This action would provide a nonradar route for itinerant traffic in Upper Michigan; (4) extend J-89 from over Duluth, Minn., VOR direct to the Winnipeg, Manitoba, Canada, VOR. This action would provide a direct route between Duluth and Winnipeg; (5) delete the existing segment of V-177 from the intersection of the Duluth, Minn., VOR 131°(M) radial and the Wausau, Wis., VOR 316°(M) radial to the Wausau VOR and redesignate the existing west alternate (V-177W) between Duluth and Wausau via Hayward, Wis., as V-177. This action would improve and expedite the movement of IFR traffic. Subpart C of Part 71 and Subpart B of Part 75 were republished in the FEDERAL REGISTER on January 3, 1977, (42 FR 307 and 707).

#### DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

#### THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 307 and 707) as follows:

PART 71

By amending § 71.123 (42 FR 307) to extend V-148, V-224 and V-345 and alter V-177 as follows:

In V-148 "Min." would be deleted and "Min.; Hayward, Wis.; to Ironwood, Mich." would be substituted therefor.

In V-177 "Duluth, Minn., including a west alternate via Hayward, Wis.;" would be deleted and "Hayward, Wis.; Duluth, Minn.;" would be substituted therefor.

In V-224 "From Marquette," would be deleted and "From Rhinelander, Wis., via Marquette," would be substituted therefor.

In V-345 "to Eau Claire" would be deleted and "Eau Claire; INT of Eau Claire 001°(357°M) and Hayward, Wis., 181° (178°M) radials; Hayward; to Ashland, Wis." would be substituted therefor.

PART 75

By amending § 75.100 (42 FR 707) to extend J-89 as follows:

In J-89 ", to Duluth, Minn." would be deleted and "; Duluth, Minn.; to Winnipeg, Manitoba, Canada. The portion within Canada is excluded." would be substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

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 Washington, D.C. on August 3, 1977.

EDWARD J. MALO,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.77-23006 Filed 8-10-77;8:45 am]

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# DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## [ 15 CFR Part 904 ]

## FINANCIAL COMPENSATION OF PARTICIPANTS IN ADMINISTRATIVE PROCEEDINGS

### Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: This proposed regulation would establish criteria and procedures

for reimbursing public participants for costs incurred in administrative proceedings conducted by NOAA. NOAA believes that the regulations will result in increased participation by those who represent viewpoints and interests that will contribute in a positive way to the decisionmaking process.

DATES: Comments must be received on or before November 9, 1977.

ADDRESS: Office of General Counsel, National Oceanic and Atmospheric Administration, Room 5807, Department of Commerce, 14th St. and Constitution Ave., NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Joel G. MacDonald, Office of the General Counsel, National Oceanic and Atomspheric Administration, Room 5222, Main Commerce Building, Washington, D.C. 20230, Telephone: (202) 377-3311.

SUPPLEMENTARY INFORMATION: During the past few months, NOAA has actively considered promulgating a regulation which would enhance public participation in its administrative proceedings by facilitating the presentation of relevant information and points of view. In developing these regulations, NOAA has taken cognizance of the legislative initiative contained in S.270 of the 95th Congress, 1st Session and the following decisions of the Comptroller General: B-139703, dated July 24, 1972, February 28, 1974, September 22, 1976, and December 3, 1976; B-92288, dated February 19, 1976; and B-180224, dated May 10, 1976. The reasoning of the Comptroller General's decisions affirms the authority of Federal agencies to reimburse participants for costs incurred in administrative proceedings, and to provide guidelines for the exercise of that authority. Specifically, administrative authority to promulgate such a regulation rests upon the Comptroller General's decision that an appropriation made for a particular object, purpose, or program "is available to finance expenses which are reasonably necessary and proper or incidental to the execution of the object, purpose, or program for which the appropriation was made * * *." (Comptroller General's Opinion B-92288, Feb. 19, 1976). Based upon the broad functions and responsibilities vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970 (35 FR 15627), and subsequently delegated to the Administrator of NOAA (39 FR 27486, Department Organization Order 25-5A, July 9, 1974, as amended), and the authorization of appropriations "[F]or expenses necessary for the National Oceanic and Atmospheric Administration, * * *", Pub. L. No. 94-362, 90 Stat. 949 (1976), NOAA has determined that there is a legal basis for providing financial assistance, under appropriate circumstances, to participants for costs incurred in administrative proceedings.

Recently, the United States Court of Appeals for the Second Circuit held that the Federal Power Commission (FPC) was not empowered, in the absence of specific statutory authority, to award attorneys' fees to participants in an FPC proceeding who opposed the construction of a power line (*Greene County Planning Board, et al.* v. *Federal Power Commission*, Nos. 76-4151, 76-4153 (2nd Cir., June 30, 1977)). While the decision of this court must be weighed in determining the extent to which NOAA will provide financial assistance, NOAA has included in the proposed regulation attorneys' fees incurred for participating in an administrative proceeding as a cost subject to compensation in order to obtain specific public comment as requested in the questions included in this preamble.

The proposed regulation provides for reimbursement of expenses incurred by certain participants in rulemaking and adjudicatory proceedings conducted by NOAA, where such participation is necessary or desirable for a fair determination of the issues, and where the participants are otherwise unable to meet such expenses. The regulation provides criteria for reimbursement and establishes procedures to be followed by applicants.

The proposed regulation further provides for reimbursement to eligible participants for reasonable attorneys' fees, expert witness fees, and other reasonable costs of participating in NOAA proceedings. Upon application, a person or group would qualify for fees and costs when they can substantially contribute to a fair determination of the issues, taking into account the number and complexity of the issues presented, the importance of widespread public participation, the need for representation of a fair balance of interests, and whether or not the person represents an interest that is not otherwise adequately represented. The person or group would also have to demonstrate that they lack the resources to participate effectively without compensation. The Administrator of NOAA would decide who should receive compensation, when there should be a consolidation of applications to avoid duplication of effort, and how funds should be allocated among eligible participants when they are insufficient fully to compensate them all.

Payment of fees and costs would be made 30 days after receipt of an itemized voucher listing each item of expense. Such payment would be made only for costs that have been authorized and actually incurred for participating in a proceeding. The eligible participants would be reimbursed only for those fees and costs which are reasonable based upon the prevailing market rates for the goods and services furnished.

NOAA invites comments on all aspects of the regulation. Comments are requested specifically on the following questions:

1. Should attorneys' fees and other assistance be provided in all administrative proceedings conducted by NOAA?

2. Should the standard for providing attorneys' fees and other assistance be the standard in the regulation, or should the standard be expanded to include applicants who represent an interest which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceedings, and the economic interest in the outcome of the applicant seeking the assistance is small in comparison to the costs of effective participation?

3. What financial eligibility criteria should be adopted?

4. Should attorneys' fees and other assistance be available to those with an economic interest in the outcome or limited to those whose participation benefits the general public or has a strong public interest justification?

5. What procedures and criteria should NOAA adopt for (a) Evaluating the quality of a participant's potential contribution to the resolution of a hearing; (b) determining the importance of the issue(s) on which a participant wants to be heard; (c) assessing the strength of a participant's interest or the uniqueness of a participant's point of view; and (d) distinguishing among equally capable participants all of whom want to receive financial support for participation in the same proceeding?

6. Should the number of participants who may be subsidized in any one proceeding be limited? If so, what should the number be?

7. Who should determine eligibility for compensation?

8. What criteria should NOAA adopt for determining whether the costs of participation incurred by a participant are reasonable or necessary for participation?

9. Should reimbursable costs be limited to certain costs, but not all costs, e.g., the cost of travel, but not the costs or salaries of persons regularly employed by the participant?

10. What consideration should NOAA give to alternative ways of providing advocacy assistance to participants, e.g., establishment of a public counsel within the agency to represent consumer interests in hearings; and what support should NOAA give for establishment of an independent agency to advocate consumer interests?

NOTE.—The National Oceanic and Atmospheric Administration has determined that this proposal does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: August 8, 1977.

RICHARD A. FRANK,
*Administrator.*

Chapter IX of 15 CFR is amended by adding the following Part 904:

## PART 904—FINANCIAL COMPENSATION OF PARTICIPANTS IN ADMINISTRATIVE PROCEEDINGS

Sec.

904.1 Purpose.
904.2 Definitions.
904.3 Criteria for financial compensation.
904.4 Submission of applications by participants.

904.5 Amount of financial compensation and procedures for payment.

§ 904.1 Purpose.

The Administrator may provide compensation for reasonable attorneys' fees, fees and costs of experts, and other costs of participation incurred by eligible participants in any adjudication, enforcement, or rulemaking proceeding involving a hearing in which there may be public participation pursuant to statute, regulation, or agency practice, whenever the Administrator determines that public participation in such a proceeding promotes or can reasonably be expected to promote a full and fair determination of the issues involved in the proceeding.

§ 904.2 Definitions.

As used herein: (a) "Administration" means the National Oceanic and Atmospheric Administration;

(b) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(c) "Applicant" means any person who has filed a timely application for compensation;

(d) "Person" means any person as defined in section 551(2) of 5 U.S.C. and includes a group of individuals with similar interests.

§ 904.3 Criteria for Financial Compensation.

(a) Any person is eligible to receive compensation under this section for participation (whether or not as a party) in Administration proceedings referred to in § 904.1 if:

(1) The person represents an interest the representation of which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceedings, taking into account:

(i) Whether the person represents an interest which is not adequately represented by a participant other than the agency itself;

(ii) The number and complexity of the issues presented;

(iii) The importance of public participation;

(iv) The need to encourage participation by segments of the public who, as individuals, may have little economic incentive to participate; and

(v) The need for representation of a fair balance of interests; and

(2) The person demonstrates to the satisfaction of the Administrator that such person does not have sufficient resources available to participate effectively in the proceedings in the absence of compensation under § 904.1.

(3) In order to facilitate public participation, the Administrator shall make written determinations, giving reasons therefor, of the eligibility of an applicant for compensation under § 904.1, and the amount and computation of such compensation. The determinations required by this paragraph shall be made as soon as practicable after receipt of an application for compensation, unless the Administrator makes an express written finding that all or any part of the determination relating to the amount or computation of such compensation cannot practicably be made at the time the initial determination of eligibility is made. The Administrator shall make such determination after consideration of the maximum amounts payable for compensation under § 904.5 for the proceedings and requests or possible requests for compensation under § 904.1 by other eligible participants in the proceeding;

(4) The Administrator may require consolidation of duplicative presentations, select one or more effective representatives to participate, offer compensation only for certain categories of expenses, or jointly compensate persons represently identical or closely related viewpoints.

§ 904.4 Submission of applications by participants.

(a) A participant must submit a written application to the Administrator in order to be authorized to receive compensation. This application shall be submitted as soon as practicable after publication of notice of the proceeding in the FEDERAL REGISTER. Applications shall be addressed to : Office of the General Counsel, National Oceanic and Atmospheric Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Each application shall contain, in a sworn statement, the following information in the form specified:

(1) The applicant's name and address, and in the case of an organization, the names, addresses, and titles of the members of its governing body and a description of the organization's general purposes, structure, and tax status;

(2) An identification of the proceeding for which funds are requested;

(3) A description of the applicant's economic, social and other interests in the outcome of the proceeding for which funds are requested;

(4) A discussion of the reasons why the applicant is an appropriate representative of those interests, including the expertise and experience of the applicant in the matters involved in the proceeding for which funds are requested and in related matters;

(5) An explanation of how the applicant's participation would enhance the quality of the decisionmaking process and serve the public interest by contributing views and data which would not be presented by another participant;

(6) A statement of the total amount of funds requested;

(7) With respect to the proceeding for which funds are requested, an itemized statement of the expenses to be covered by the requested funds and of the expenses to be covered by the applicant's funds;

(8) A description of the evidence, activities, studies or other submissions that will be generated by each of those expenditures;

(9) An explanation of how the requested funds would result in enhancing the quality of the applicant's participation in the proceeding for which funds are requested;

(10) An explanation of why the applicant cannot use funds that it already possesses or expects to receive for the purpose for which funds are requested, including:

(i) A listing of the applicant's anticipated income and expenditures (rounded to the nearest $100) during the current fiscal year; and

(ii) A listing of the total assets and liabilities of the applicant as of the date of the application.

(11) An explanation of why the applicant cannot in other ways obtain the funds that are requested, including a description of the applicant's past efforts to obtain those funds in other ways and the feasibility of future attempts to raise funds in other ways; and

(12) A list of all proceedings of the Federal government in which the applicant has participated during the past year (including the interest represented and the contribution made) and any amount of financial assistance received from the Federal government in connection with these proceedings.

§ 904.5 Amount of financial compensation and procedures for payment.

(a) The Administrator may establish a limit on the total amount of financial compensation to be made to all participants in a particular proceeding and/or may establish a limit on the total amount of compensation to be made to any one participant in a particular proceeding.

(b) The Administrator shall compensate participants only for costs that have been authorized and only for such costs actually incurred for participation in a proceeding;

(c) The Administrator shall compensate participants only for costs that he or she determines are reasonable. The amount of reasonable attorneys' fees, fees and costs of experts, and other costs of participation awarded under section 1 shall be based upon prevailing market rates for the kind and quality of the goods and services, as appropriate, furnished, except that no attorney, expert or consultant shall be compensated at a rate in excess of the highest rate of compensation for attorneys, experts, consultants, and other personnel with comparable experience and expertise paid by the Administration;

(d) The Administrator may compensate participants for any or all of the following costs:

(1) Salaries for participants or employees of participants;

(2) Fees for consultants, experts, contractual services, and attorneys that are incurred by participants;

(3) Transportation costs;

(4) Travel related costs such as lodging, meals, tipping, telephone calls, etc.; and

(5) All other reasonable costs incurred such as document reproduction, postage, etc.

(e) The Administrator shall compensate participants within 30 days fol-

lowing the date on which the participant submits an itemized voucher of actual costs pursuant to paragraph (a) of this section;

(f) The participant shall be paid upon submission of an itemized voucher listing each item of expense. Each item of expense exceeding $15.00 must be substantiated by a copy of a receipt, invoice, or appropriate document evidencing the fact that the cost was incurred;

(g) The Administrator and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers and records of a participant receiving compensation under this section. The Administrator may establish additional guidelines for accounting, recordkeeping and other administrative procedures with which participants must comply as a condition of receiving compensation.

[FR Doc.77-23242 Filed 8-10-77;8:45 am]

## FEDERAL TRADE COMMISSION

### [ 16 CFR Part 13 ]

[File No. 752 3121]

### FRANKART DISTRIBUTORS, INC., ET AL.

### Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent order, among other things, requires a New Rochelle, N.Y. furniture dealer and its affiliates to cease using the terms "carved" or "detailed carving" or any other similar terms to describe furniture which has not been cut or carved into shape. Further, the order requires the firms to make clear and conspicuous disclosures regarding the composition or construction of their furniture, both in their advertising and on the furniture displayed in their showrooms.

DATES: Comments must be received on or before October 3, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary. Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Richard A. Givens, Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007. (212-264-1207.)

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

[File No. 7523121]

FRANKART DISTRIBUTORS, INC., ET AL

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Frankart Distributors, Inc., a corporation, Frankart Flushing, Inc., a corporation, Frankart-Fordham, Inc., a corporation, Frankart Westchester, Inc., a corporation, Frankart-New Rochelle, Inc., a corporation, Frankart Paramus, Inc., a corporation, Frankart Jamaica, Inc., a corporation, Frankart Kings, Inc., a corporation, Mallary, Inc., a corporation, doing business under that name and as Frankart-Grand Concourse, and Bernard Frankel, individually and as an officer of said corporations.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the parties named in the caption hereof and more particularly described below, and hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated:

It Is Hereby Agreed by and between Frankart Distributors, Inc., Frankart Flushing, Inc., Frankart-Fordham, Inc., Frankart Westchester, Inc., Frankart-New Rochelle, Inc., Frankart Paramus, Inc., Frankart Jamaica, Inc., Frankart Kings, Inc., Mallary, Inc., doing business under that name and as Frankart-Grand Concourse, by their duly authorized officer, and Bernard Frankel, individually and as an officer of said corporations, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Frankart Distributors, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 543 Main Street, New Rochelle, New York.

Proposed respondent Frankart Flushing, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 37-11 Main Street, Flushing, New York.

Proposed respondent Frankart-Fordham, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 18 West Fordham Road, Bronx, New York.

Proposed respondent Frankart Westchester, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1088 Central Avenue, Scarsdale, New York.

Proposed respondent Frankart-New Rochelle, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 543 Main Street, New Rochelle, New York.

Proposed respondent Frankart Paramus, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Route 4, Spring Valley Road, Paramus, New Jersey.

Proposed respondent Frankart Jamaica, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 160-08 Jamaica Avenue, Jamaica, New York.

Proposed respondent Frankart Kings, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 1209 Kings Highway, Brooklyn, New York.

Proposed respondent Mallary, Inc., doing business under that name and as Frankart-Grand Concourse, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 2431 Grand Concourse, Bronx, New York.

Proposed respondent Bernard Frankel is an individual and an officer of the corporate respondents. He formulates, directs and controls the policies, acts and practices of said corporate respondents, including the acts and practices hereinafter set forth. His business address is 543 Main Street, New Rochelle, New York.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this

agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

*It is ordered*, That respondents Frankart Distributors, Inc., Frankart Flushing, Inc., Frankart-Fordham, Inc., Frankart Westchester, Inc., Frankart-New Rochelle, Inc., Frankart Paramus, Inc., Frankart Jamaica, Inc., Frankart Kings, Inc., corporations, Mallary, Inc.,a corporation, doing business under that name and as Frankart-Grand Concourse, or under any other name or names, their successors and assigns, and their officers, and Bernard Frankel, individually and as an officer of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the advertising displaying offering for sale, sale and distribution of furniture, or any other products, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Using the terms "carved" or "detailed carving" or any other terms of similar import and meaning, to describe any furniture or part thereof that has not been cut or carved into shape.

For purposes of this order, "Exposed Surfaces" are defined as those parts and surfaces exposed to view when furniture is placed in the generally accepted position for use.

2. Failing to clearly and conspicuously disclose that furniture having the appearance of solid wood, but containing exposed surfaces of veneered construction, contains such veneered construction.

3. Failing to clearly and conspicuously disclose that furniture containing exposed surfaces composed in whole or in part of plastic or other materials which have the appearance of wood, contains such plastic or other materials, or that the exposed surfaces are not wood.

4. Failing to disclose either the true composition or construction furniture or its parts, or that material is not what it appears to be, whenever any statement, representation or depiction is used in advertising, which may otherwise be misleading as to the true composition or construction of such furniture or its parts without such disclosure. Such disclosures shall be made clearly and conspicuously and in close conjunction with any statements, representations or depictions used.

5. Failing to clearly and conspicuously disclose, on the furniture itself, or on tags or labels attached to such furniture in a manner so as not to be easily removed, either the true composition or construction of furniture or its parts, or that material is not what it appears to be, whenever the appearance of such furniture or its parts may be misleading as to its true composition or construction without such disclosure.

*It is further ordered*, That respondents deliver a copy of this order to all operating divisions and to all present and future personnel of respondents responsible for any aspect of preparation, creation, or placing of advertising, and to all present and future personnel of respondents responsible for the sale or offering for sale of all products covered by this order, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

*It is further ordered*, That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or state regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by, the Federal Trade Commission.

*It is further ordered*, That respondents shall maintain for at least a one (1) year period following the effective date of this order, copies of all advertisements, including newspaper, radio and television advertisements, direct mail and in-store solicitation literature, and any other promotional material utilized in the advertising, promotion or sale of all products covered by this order.

*It is further ordered*, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of this order.

*It is further ordered*, That the individual respondent named herein promptly notify the Commission of each change in business or employment status, which includes discontinuance of his present business or employment and each affiliation with a new business or employment, for ten (10) years following the effective date of this order. Such notice shall include respondent's current business address and a description of the business or employment in which he is engaged as well as a description of his duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligations arising under this order.

*It is further ordered*, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

FRANKART DISTRIBUTORS, INC. ET AL

[File No. 7523121]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Frankart Distributors, Inc. and eight affiliated firms and Bernard Frankel, President of the firms.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that the corporations and Bernard Frankel failed to disclose the composition or construction of furniture of veneered construction which appeared to be solid wood, or furniture composed of plastic or other materials which had the appearance of wood. It further alleges that they described certain of their furniture as carved when the furniture was actually formed from plastic by the use of a mold. The complaint is generally premised upon the principles of affirmative disclosure of material facts as set forth in the Commission's "Guides for the Household Furniture Industry."

The order prohibits the use of the terms "carved" or "detailed carving" or any other similar terms to describe furniture which has not been cut or carved into shape. The order requires the firms to make clear and conspicuous disclosures regarding the composition or construction of their furniture, both in their advertising and on the furniture displayed in their showrooms, and essentially tracks the concepts set forth in the furniture "Guides."

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
*Secretary.*

[FR Doc.77-23158 Filed 8-10-77;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 765-8; PP 6E1792/P51]

### [ 40 CFR Part 180 ]

### PESTICIDE PROGRAMS

### Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical Aldicarb

*Correction*

In FR Doc. 77-21031, appearing at page 37578 in the issue of Friday, July 22, 1977, the following changes should be made:

1. On page 37578, third column, the word in parentheses in the fourth from bottom line of the last full paragraph should read, "(methylsulfonyl)".

2. The seventh line of the first column on page 37579 should read, "studies and by reference only a two-".

3. In the third column on page 37579, the entries in columns one and two of the table in § 180.269, omitted at publication, should read "Bananas" and "0.3" respectively.

## FEDERAL COMMUNICATIONS COMMISSION

### [ 47 CFR Part 1 ]

[Docket No. 21351; FCC 77-524]

### WAITING PERIOD FOR FILING APPLICATIONS IN SAFETY AND SPECIAL RADIO SERVICES AFTER A DISMISSAL WITH PREJUDICE OR AFTER A REVOCATION

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: (i) Amendment of § 1.916 of the Commission's rules to extend to 36 months from 12 months the time within which the Commission will not consider an application for a new or

modified station license in the Safety and Special Radio Services following a dismissal with prejudice or a revocation of a license for that station.

(ii) The 12 month period has proven inadequate. It has resulted in excessive administrative processing, including hearings on applications, filed after related revocation and prejudicial dismissal situations.

(iii) The intended effect of the proposed rule change is to eliminate the need for processing the subject type applications until three years after the underlying dismissal or revocation, by which time routine grants will for the most part be in order without any need for a hearing.

DATES: Comments must be received on or before September 14, 1977 and Reply comments must be received on or before September 26, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Newton B. Jaslow, Federal Communications Commission, phone 202–632–7511.

SUPPLEMENTARY INFORMATION:

Adopted: July 21, 1977.

Released: August 5, 1977.

In the matter of amendment of section 1.916 of the Commission's rules with respect to the waiting period for filing applications in the Safety and Special Radio Services after a dismissal with prejudice or after a revocation.

1. Notice of Proposed Rule Making in the above-captioned matter is hereby given. Section 1.916 of the Commission's Rules provides that where the Commission has for any reason denied an application for a new station or for any modification of services or facilities, dismissed such application with prejudice, or revoked the license for a radio station in the Safety and Special Radio Services, the Commission will not consider a like or new application involving service of the same kind to substantially the same area by substantially the same applicant, its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's order. The Commission may, for good cause shown, waive the requirements of this section.

2. The purpose of the proposed rule is to bolster the relevant Commission sanction of denial, prejudicial dismissal, or revocation by allowing the Commission to dismiss as defective, without a hearing, subsequent applications filed within the one year waiting period. Historically, the one year period has proved to be effective through the Safety and Special Radio Services. In the past, applicants who have filed following the waiting period have generally been found by the Commission, without a hearing, to have revived eligibility and have been granted their authorizations. In a small number of cases the applications have been set for hearing by the Commission on the ground of the Commission's inability to make a determination of eligibility.

3. The recent proliferation of Safety and Special authorizations and the tremendous surge in serious violations in the services, accompanied by resultant sanctions imposed by the Commission, have necessitated a change in the waiting period in those services. We have found that the number of applicants filing soon after the one year is increasing. Applications filed soon after the one year prohibition cannot be routinely granted because of the seriousness of the matter which resulted in the license revocation or denial of the license. Similarly, the issues that were pending at the time an application is dismissed with prejudice must still be resolved when a second application is filed one year later. To routinely grant applications only one year after revocation, denial or dismissal would render the Commission's processes and sanctions almost meaningless. A revocation would amount to no more than a one year suspension. The denial of an application after hearing would only constitute a one year delay.

4. It appears that the one year provision is inadequate. It serves no useful administrative or enforcement purpose to hold hearings on applications filed one year after revocation, denial or dismissal with prejudice. Moreover it is expensive and time consuming. On the other hand, most applications can be routinely granted when there has been a span of three years between the revocation, denial or dismissal and there has been no intervening violative conduct.

5. Accordingly, the Commission proposes to extend the waiting period in the Safety and Special Radio Services to three years, as set forth in the attached Appendix. The waiting period remains one year in the other services.

6. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before September 14, 1977, and reply comments on or before September 26, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. Comments are particularly invited as to the appropriateness of the proposed three year waiting period.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rule Making, will be available for public inspection in the Docket Reference Room in the Commission's Office in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

Part 1 of the Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§1.916 is amended to read as follows:

**§ 1.916 Repetitious applications.**

Where the Commission has, for any reason, denied an application for a new station or for any modification of services or facilities, dismissed such application with prejudice, or revoked the license for a radio station in the Safety and Special Radio Services, the Commission will not consider a like or new application involving service of the same kind to substantially the same area by substantially the same applicant, its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 36 months from the effective date of any such Commission order issued after January 1, 1978, except that the lapse shall be 12 months from the effective date of any such order issued prior to January 1, 1978. The Commission may, for good cause shown, waive the requirements of this section.

[FR Doc.77-23245 Filed 8-10-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### [ 50 CFR Part 17 ]

### ENDANGERED AND THREATENED WILDLIFE AND PLANTS

### 20 Species on Appendix I of Convention on International Trade in Endangered Species of Wild Fauna and Flora; Review of Status

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Review of the status of certain species on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

SUMMARY: At the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, held in Berne, Switzerland, from November 2–6, 1976, the addition of 46 animal taxa to Appendix I of the Convention was approved. Appendix I is defined as including "all species threatened with extinction which are or may be affected by trade." Of the 46 animal taxa added to this Appendix at the Berne Conference, 20 are not currently recognized as Endangered species under the Endangered Species Act of 1973. This notice states the intention of the U.S. Fish and Wildlife to review the status of these 20 taxa to determine if any or all of them should be determined as Endangered or Threatened pursuant to the Act.

DATES: Given the large number of species under review, a longer comment period will be permitted than is usually the case and any information received before January 1, 1978, will be given full

consideration. Such information should be submitted to the Director, U.S. Fish and Wildlife Service, and can pertain to any or all of the species in question.

ADDRESSES: Comments on the species under review should be sent 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. Phone 202–343–4646.

SUPPLEMENTARY INFORMATION: The Appendix I species that are under review for possible determination as Endangered or Threatened, pursuant to the Endangered Species Act of 1973, are the following:

| Common Name | Scientific Name | Where found |
|---|---|---|
| Bear, Asiatic black | *Selenarctos thibetanus gedrosianus* | Pakistan. |
| Bear, spectacled | *Tremarctos ornatus* | Andes of South America. |
| Chinchillas | *Chinchilla* spp. | Do. |
| Dog, bush | *Speothos venaticus* | NE. South America. |
| Marmoset, buff-headed | *Callithrix flaviceps* | Eastern Brazil. |
| Marmoset, pygmy | *Cebuella pygmaea* | Andes of South America. |
| Marmoset, white-eared | *Callithrix aurita* | Eastern Brazil. |
| Otter, European | *Lutra lutra* | Europe and Asia. |
| Rhinoceros, black | *Diceros bicornis* | Central and southern Africa. |
| Rhinoceros, southern white | *Cerototherium simum simum* | Southern Africa. |
| Eagle, imperial | *Aquila heliaca* | Southern Europe to central Asia. |
| Eagle, white-tailed | *Haliaetus albicilla* | Greenland, Iceland, northern and eastern Europe; northern, central and eastern Asia. |
| Falcon, peregrine | *Falco peregrinus* | Most of Eurais, Africa, Australia. |
| Kestrel, Aldabra | *Falco newtoni aldabranus* | Aldabra Island. |
| Boas, mad | *Acantophis* spp. | Australia, New Guinea. |
| Boas, Round Island | *Bolyeria* spp. | Round Island off Mauritius. |
| Do. | *Casarea* spp. | Do. |
| Boa, tree | *Sanzinia madagascariensis* | Madagascar. |
| Crocodile, dwarf | *Osteolaemus tetraspis* | West Africa. |
| Crocodile, mugger | *Crocodylus palustris* | India, Sri Lanka. |

The Service is consulting with the foreign Countries in which the above named species are resident as required by the Act. All other interested parties are invited to submit any factual information, including publications and written reports, on any or all of these species.

This notice of review was prepared by John L. Paradiso, Office of Endangered Species.

Dated: August 3, 1977.

LYNN A. GREENWALT,
*Director, Fish and Wildlife Service.*

[FR Doc.77-23037 Filed 8-10-77;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.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### ALPINE PLANNING UNIT

#### Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environment statement for the Alpine Planning Unit, Toiyabe National Forest, Nevada and California. The Forest Service report number is USDA–FS–FES (Adm) R4–76–17.

The environmental statement identifies and evaluates the probable effects of management for the planning unit, evaluate possible alternative courses of action, and provides a summary record of public participation in development of the plan. The purpose of the land management plan is to allocate National Forest lands and resources to specific uses and resource activities; establish management objectives; provide a record of management direction and decisions for specific areas and units of land; coordinate measures between resources uses and activities; and establish protective measures to keep adverse environmental effects to a minimum.

This final environmental statement was transmitted to CEQ on August 4, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., S.W., Washington, D.C. 20250.
Regional Planning & Budget Office, USDA, Forest Service, Federal Building, Room 4120, 324—25th Street, Ogden, Utah 84401.
Forest Supervisor, Toiyabe National Forest, 111 North Virginia Street, Room 601, Reno, Nevada 89501.
District Forest Ranger, Carson Ranger District, 1536 South Carson Street, Carson City, Nevada 89701.

A limited number of single copies are available upon request to Forest Supervisor John F. Lavin, Toiyabe National Forest, 111 North Virginia Street, Room 601, Reno, Nevada 89501.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: August 2, 1977.

EINAR L. ROGET,
*Deputy Chief.*

[FR Doc.77–23155 Filed 8–10–77;8:45 am]

### GREAT BEAR WILDERNESS (PROPOSED)

#### Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Great Bear Wilderness (Proposed), USDA–FS–DES(Leg)77–05.

The environmental statement recommends that 298,971 acres of National Forest land within the Flathead and Lewis and Clark National Forests, State of Montana, together with 28.69 acres of private land, be classified as wilderness by Congress and added to the National Wilderness Preservation System.

A 6,240 acre utility corridor across the Study Area via Dirtyface and Logan Creeks is not recommended for wilderness designation at this time. The decision for allocation of this area will be held in abeyance until (1) an indepth study, including environmental impact statements which discusses all corridors between Canada and northern Utah, indicates a need or lack of need for this utility corridor, or (2) until the year 2020 at which time, if a study has not determined a need or lack of need, the corridor will automatically become wilderness. Until such a determination is made, the corridor will be managed to preserve its wilderness characteristics.

The draft proposal further recommends that 81,320 acres in the Great Bear Wilderness Study Area not be classified as wilderness.

This draft environmental statement was transmitted to CEQ on August 8, 1977.

Copies are available for inspection during regular working hours at the following locations.

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave., SW., Washington, D.C. 20013.
USDA, Forest Service, Northern Region, Federal Building, Missoula, Mont. 59801.
USDA, Forest Service, Flathead National Forest, 209 North Main Street, P.O. Box 147, Kalispell, Mont. 59901.
USDA, Forest Service, Lewis and Clark National Forest, 1st Ave. North and 3rd Street, P.O. Box 871, Great Falls, Mont. 59403.

A limited number of single copies are available upon request to:

USDA, Forest Service, Great Bear Wilderness Study, P.O. Box 147, Kalispell, Mont. 59901.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to: Great Bear Wilderness Study, P.O. Box 147, Kalispell, Mont. 59901.

Comments must be received by October 8, 1977 in order to be considered in the preparation of the final environmental statement.

EINAR L. ROGET,
*Acting Deputy Chief.*

AUGUST 8, 1977.

[FR Doc.77–23229 Filed 8–10–77;8:45 am]

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### NACHES-TIETON-WHITE RIVER PLANNING UNIT LAND MANAGEMENT PLAN

#### Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Naches-Tieton-White River Planning Unit Land Management Plan, USDA–FS–R6–DES (Adm)–77–10.

The environmental statement concerns a proposed plan for the Naches-Tieton-White River Planning Unit within the Snoqualmie and Gifford Pinchot National Forests, State of Washington, Counties of King, Pierce, Lewis, Yakima and Kittitas. The preferred alternative recommends the allocation of 12,746 acres as Additional Wilderness Study Area, in addition to the 175,110 acres allocated in 1973 as Wilderness Study Areas; 58,610 acres as Management Units primarily for dispersed recreation; and 420,024 acres for the production of a full range of commodity and amenity values. In addition, this land management plan proposes the construction of 3.6 miles of single-lane truck road over the Cascade Mountains in the vicinity of Government Meadows and Naches Pass.

The draft environmental statement was transmitted to CEQ on August 4, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 SW Pine Street, Portland, Oreg. 97204.
Supervisor's Office, Mt. Baker-Snoqualmie National Forest, 1601 Second Avenue Buildin, Seattle, Wash. 98101.
Supervisor's Office, Wenatchee National Forest, 301 Yakima Street, Wenatchee, Wash. 98801.
Supervisor's Office, Gifford Pinchot National Forest, 500 W. 12th Street, Vancouver, Wash. 98660.
USDA, Forest Service, Naches Ranger Station, Naches, Wash. 98937.
USDA, Forest Service, Tieton Ranger Station, Naches, Wash. 98937.
USDA, Forest Service, Packwood Ranger Station, Packwood, Wash. 98361.
USDA, Forest Service, White River Ranger Station, Enumclaw, Wash. 98022.

A limited number of single copies are available upon request to Forest Supervisor Don R. Campbell, Mr. Baker-Snoqualmie National Forest, 1601 Second Ave. Bldg., Seattle, Wash. 98101.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been required specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Don R. Campbell, Mt. Baker-Snoqualmie National Forest, 1601 Second Avenue Bldg., Seattle, Washington 98101. Comments must be received by December 2, 1977 in order to be considered in the preparation of the final environmental statement.

CURTIS L. SWANSON,
*Regional Environmental Coordinator, Planning, Programing and Budgeting.*

AUGUST 4, 1977.

[FR Doc.77-23208 Filed 8-10-77;8:45 am]

## ST. FRANCIS UNIT PLAN

### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the St. Francis Unit Plan, St. Francis National Forest in Arkansas, USDA-FS-R8-FES (Adm.)-75-06.

This proposed 10-year Management Plan for the St. Francis Unit, St. Francis National Forest, covers 29,946 acres of National Forest land located in Lee and Phillips Counties, Arkansas. It is proposed that this Unit be managed in accordance with soil capabilities for a wide range of multiple-use benefits, including water, wildlife, recreation, range, minerals and timber.

This final environmental statement was transmitted to CEQ April 6, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3230, 12th St. & Independence Ave., SW., Washington, D.C. 30350.

USDA, Forest Service, 1720 Peachtree Street, NW., Atlanta, Georgia 30309.

U.S. Forest Service, Ozark-St. Francis NFs, P.O. Box 1008, Russellville, Arkansas 72801.

A limited number of single copies are available upon request to Forest Supervisor Larry Henson, Ozark-St. Francis National Forest, P.O. Box 1008, Russellville, Arkansas 72801.

Copies of the environmental statement have been sent to various Federal, State, and Local agencies as outlined in the CEQ guidelines.

Dated: August 4, 1977.

GEORGE H. COOK,
*Acting Regional Environmental Coordinator.*

[FR Doc.77-23124 Filed 8-10-77;8:45 am]

## CIVIL AERONAUTICS BOARD

[Order 77-8-21; Docket 30635]

### ARIZONA SERVICE INVESTIGATION

**Order on Petitions for Reconsideration and on Motion for Consolidation**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of August 1977.

By Order 77-3-108, March 18, 1977, the Board instituted the *Arizona Service Investigation*, Docket 30635. There the Board directed that applications, motions for consolidation, and comments be filed within 20 days.

By Order 77-6-24, June 7, 1977, the Board established the issues to be resolved in this proceeding, and concluded that the *Arizona Service Investigation* should not be expanded to include the Cedar City or Salt Lake City service.

Scenic Airlines, Inc., and the State of Arizona both filed petitions for reconsideration, to which the Bureau filed a motion for leave to file a late-filed document, an answer in opposition to the petition. Scenic Airlines, Inc., requested the Board to delete the issue of whether Cochise Airlines, Inc., if certificated, should also be authorized to operate air taxi service pursuant to Part 298 to points to which it is not certificated. The State of Arizona requested the Board to reconsider the issue of suspension/deletion independently of replacement, and to require that suspension/deletion be considered only in conjunction with the issue of replacement service. In order that the Board shall have the flexibility necessary to fashion its order to deal best with the service needs of each point at issue, the petitions for reconsideration filed by Scenic Airlines, Inc., and the State of Arizona shall be denied.

Three months after the running of the time for filing of applications, motions for consolidation, and comments, SkyWest Aviation, Inc., d/b/a SkyWest Airlines, filed an application (Docket 31088) for certification to serve between Salt Lake City, on the one hand, and Phoenix, Arizona and Las Vegas, Nevada, on the other hand, via one-stop service at Cedar City/St. George (Utah)/Page (Arizona)—service quite distinct from that at issue in the *Arizona Service Investigation;* the latter go to the needs of the small communities named in Order 77-6-24 for air service. At the time of filing its application, SkyWest Aviation, Inc., also moved for leave to file an otherwise unauthorized document, a motion to consolidate its application in Docket 31088 with the *Arizona Service Investigation*, Docket 30635. The Bureau of Operating Rights, the Town of Page, Arizona, Hughes Airwest, Inc., the Arizona Department of Transportation, and Cochise Airlines, Inc., within the time permitted for filing answers to motions filed motions for leave to file otherwise unauthorized documents, answers to the motion of SkyWest Aviation, Inc., to file its late-filed motion. The Bureau of Operating Rights, the Town of Page, Arizona and Hughes Airwest, Inc., supported, and the Arizona Department of Transportation and Cochise Airlines, Inc., opposed the granting of SkyWest's application for consolidation.

The motions of SkyWest Aviation, Inc., the Bureau of Operating Rights, the Town of Page, Arizona, Hughes Airwest, Inc., the Arizona Department of Transportation, and Cochise Airlines, Inc., for leave to file otherwise unauthorized documents (answers) shall be granted.

The motion of SkyWest Aviation, Inc., for consolidation of its application in Docket 31088 with the *Arizona Service Investigation*, Docket 30635, will be granted only to the extent that the application conforms with the scope of the service (points) at issue as defined by the Board in Order 77-6-24. The grant of the application in its entirety would unnecessarily expand the issues in the Arizona Service Investigation, and would unduly delay the resolution of the issues involved to the detriment of the parties and the public interest. Although the application and the motion of SkyWest Aviation, Inc., were late-filed and do not meet the criteria of Rule 12 of the Board's Rules of Procedure relating to the consolidation of applications, to deny consideration of SkyWest's application for the Page-Phoenix and Page-Las Vegas markets, segments in issue in the *Arizona Service Investigation*, would not

be in the public interest.[1] This is especially so since SkyWest Aviation, Inc., may have relied upon Board Order 77-1-133, January 24, 1977, which was revised by Order 77-6-61 subsequent to the Board's initiation of the *Arizona Service Investigation*. The latter order (Order 77-6-61) may have necessitated a reevaluation by SkyWest Aviation, Inc. of the economic impact of the Cochise proposal for service at Page upon Skywest's proposed replacement service (for a suspended Airwest at Page and Cedar City) in the Page-Salt Lake City and Page-Las Vegas markets.[2]

To the extent the application of SkyWest Aviation, Inc., is not consolidated with the *Arizona Service Investigation* it shall be dismissed without prejudice to the refiling by SkyWest Aviation, Inc., of its application for certification in its Utah markets and beyond St. George to Page and via Page to Las Vegas, and such conditions as said carrier may deem necessary to its providing of such service.

Accordingly, it is ordered that:

1. The petitions of Scenic Airlines, Inc., and the State of Arizona for Reconsideration of Order 77-6-24 be denied;

2. The motions of SkyWest Aviation, Inc., the Bureau of Operating Rights, the Arizona Department of Transportation, the Town of Page, Hughes Airwest, and Cochise for the filing of Otherwise Unauthorized (late-filed) Documents be granted;

3. The motion of SkyWest Aviation, Inc., for the consolidation of its application in Docket 31088 with the *Arizona Service Investigation, Docket* 30635, be granted only to the extent that it conforms with the scope of service at issue in the *Arizona Service Investigation*, i.e., SkyWest's application for authority to serve Page-Phoenix and Page-Las Vegas; and that, to the extent it does not conform, its application be dismissed without prejudice; and

4. Ordering subparagraphs 1 (a), (b), (c), and (d) to Order 77-6-24 be modified to read as follows:

a. Do the public convenience and necessity require, taking into account subsidy need, if any, the certification of (i) Cochise Airlines, Inc., to engage in air transportation of persons, property and mail between and among Page, Kingman, Prescott, Grand Canyon, Yuma, Flagstaff, Lake Havasu City, Winslow, Douglas, Ft. Huachuca/Sierra Vista, Phoenix, Tucson, Arizona, Las Vegas, Nevada, and Blythe, El Centro and Los Angeles, California, and (ii) SkyWest Aviation, Inc. to engage in air transportation of persons, property and mail between Page, Arizona and Phoenix, Arizona, or Las Vegas, Nevada?

b. Are Cochise Airlines, Inc., and SkyWest Aviation, Inc., fit, willing and able to perform properly the air transportation set out in (a) above, and to conform with the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board thereunder?

c. If the applications are granted, pursuant to (a) above, in whole or in part, and a certificate is issued to Cochise Airlines, Inc., or SkyWest Aviation, Inc., what terms, conditions and limitations, if any, should be attached to the certificates?

d. If the applications are granted and a certificate is issued, is it in the public interest to authorize Cochise Airlines, Inc., or SkyWest Aviation, Inc., to operate as an air taxi pursuant to 14 C.F.R. Part 298 in markets which they are not certificated to serve?

5. Except to the extent granted here, the applications in this proceeding and all other requests here be denied.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T KAYLOR,
*Secretary.*

[FR Doc.77-23201 Filed 8-10-77;8:45 am]

[1] On August 2, 1977, Skywest requested reconsideration of the Board's determination at the meeting on the day on this issue, stating that the carrier could indeed meet the procedural dates on the expanded issues. The petition is not a proper document and is rejected. Petitions lie only from Board orders and not to tentative determinations reached at calendar meetings. Moreover, the filing is in essence a successive petition for reconsideration prohibited by Rule 37(c). In any event, we are not persuaded that the current procedural dates established at the prehearing conference could be met by SkyWest, additional civic parties, and perhaps additional carriers if the issues were expanded.

[2] Airwest is presently operating in the Page/Cedar City-Salt Lake City markets. OAG, July 15, 1977.

[Docket No. 27573; Agreement C.A.B. 26765 R-1 through R-3; Order 77-7-139]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Specific Commodity Rates

Issued under delegated authority July 28, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolution of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names two specific commodity rates under existing commodity descriptions and adds one new rate with a new specific commodity description as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in IATA letters between June 15 and June 21, 1977.

| Agreement CAB | Specific commodity item No. | Description and rate [1] |
|---|---|---|
| 26765: | | |
| R-1 | 1102 | Fur plates made from sewn scraps: 140 c/kg, minimum weight 200 kg; 121 c/kg, minimum weight 500 kg; 115 c/kg, minimum weight 1,000 kg; Athens to New York/Montreal. |
| R-2 | 9948 | Military stores and impedimenta, property of British Government: [3] 131 c/kg, minimum weight 100 kg; 120 c/kg, minimum weight 200 kg; 113 c/kg, minimum weight 500 kg; 106 c/kg, minimum weight 1,000 kg; New York to London/Manchester/Glasgow. |
| R-3 | 5851 | Semi precious stones: 318 c/kg,[3] minimum weight 100 kg; Johannesburg to New York. |

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] New description.
[3] Expires Sept. 30, 1978.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions ordered.

*According, it is ordered*, That: Agreement C.A.B. 26765 is approved: *Provided*, That (a) approval shall not constitute approval of the specific commodity descriptions contained there for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-23073 Filed 8-10-77;8:45 am]

[Docket 30531]

## PAN AMERICAN WORLD AIRWAYS, INC. ENFORCEMENT PROCEEDINGS; COMPLAINT OF NANCY BARNES CLARK

### Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S.

Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., August 5, 1977.

HENRY M. SWITKAY,
*Acting Chief*
*Administrative Law Judge.*

[FR Doc.77-23199 Filed 8-10-77;8:45 am]

[Dockets 30497 and 30743]

## TRANS WORLD AIRLINES, INC.

### Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., August 5, 1977.

HENRY M. SWITKAY,
*Acting Chief*
*Administrative Law Judge.*

[FR Doc.77-23200 Filed 8-10-77;8:45 am]

[Order 77-8-20; Docket 31241]

## UNIVERSAL AIR FREIGHT, INC.

### Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of August, 1977.

By tariff revisions[1] issued July 7 and marked to become effective August 8, 1977, Universal Air Freight, Inc., (Universal), an air freight forwarder, proposes to increase its excess valuation charge from 15 cents to 25 cents per $100 or fraction thereof, by which the value declared on the airbill exceeds 50 cents per pound or $50 per shipment, whichever is higher; and to increase its domestic C.O.D. collection service minimum charge from $2.00 to $4.50 per shipment.

Upon consideration of all relevant factors, the Board finds that the proposed charges may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposed charges should be suspended pending investigation.

Air freight forwarders are common carriers and under common law cannot exculpate themselves from liability. It is true that a maximum liability could at common law be imposed pursuant to contract. Even so, the carrier would have to provide an opportunity to these shippers to obtain added protection at a reasonable charge. Although the Board has not actively exercised its regulatory powers over the basic transportation charges of forwarders on the ground that they are adequately controlled by competition, it has been our experience over the years that charges for ancillary services such as excess-value charges are not so carefully scrutinized by shippers. As a result, the Board has concluded that these charges are not effectively regulated by competitive pressures and has, therefore, suspended increases in such charges above prevailing industry levels unless the charges were adequately justified. With one exception, no forwarder has been willing to defend its proposals in an investigation, and in that case, Imperial Air Freight Service, Inc., Increased Excess Value Charges (Imperial case), Docket 23538 (Order 72-4-141, April 26, 1972), the Board found the proposed increases inadequately justified.

Both the excess valuation and C.O.D. charges currently proposed are above current levels for other forwarders as well as for the direct carriers, but Universal has not submitted any justification whatsoever in support of its proposals.[2]

The proposed increase in excess value charges from 15 to 25 cents per $100 of declared value would place Universal's charge significantly above that of other air freight forwarders and direct carriers. Most major forwarders currently have in effect an excess-valuation charge of 15 cents per $100 on their domestic traffic. With a few exceptions, direct carriers publish an excess-valuation charge of 10 cents per $100; none has a charge more than 15 cents per $100 valuation. The Board has suspended, pending investigation, a number of previous proposals to increase excess-valuation charges above this level where no showing was made that existing excess-value revenues did not cover the amount of claim expense stemming from the declarations of excess value.[3] Furthermore, the Board, after hearing in the Imperial case, supra, found the proposed increase in the excess-valuation charge from 15 to 25 cents per $100 unlawful on the same ground, and ordered it cancelled.

The proposed increase in the C.O.D. minimum charge per shipment from $2 to $4.50 would result in minimum charges above those in effect for all major and most other forwarders.[4] Practically all direct carriers have a domestic minimum charge for C.O.D. service of $1 per shipment.

The Board has consistently suspended increases in C.O.D. charges proposed by both forwarders and direct carriers in the absence of adequate justification.[5] We shall suspend Universal's proposed C.O.D. minimum charges for the same reason.

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 charges and provisions in Rule No. 80(b) on 1st Revised Page 5 and Rule No. 100 (c) on 1st Revised Page 6 of C.A.B. No. 1, issued by Universal Air Freight Inc., and rules, regulations, or practices affecting such provisions, are or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the unlawful provisions and rules, regulations or practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule No. 80(b) on 1st Revised Page 5 and Rule No. 100(c) on 1st Revised Page 6 of C.A.B. No. 1, issued by Universal Air Freight, Inc., be suspended and their use deferred to and including November 5, 1977, unless otherwise ordered by the board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

3. This proceeding be designated Docket 31241 and be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Universal Air Freight, Inc., which is hereby made a party to Docket 31241.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board,[6]

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-23202 Filed 8-10-77;8:45 am]

[Docket No. 31183; Order 77-8-16]

## WESTERN AIR LINES, INC.

### Order of Suspension and Investigation Regarding United States-Mexico Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of July 1977.

By Order 77-4-132, April 26, 1977, the Board disapproved the portion of an agreement among the member carriers of the International Air Transport Association (IATA) that would have increased fares in West Coast-Mexico markets. The Board's action was based primarily on

[1] Revisions to Universal Air Freight, Inc., Tariff C.A.B. No. 1.

[2] Since Universal received gross revenues under $5 million for the first year of operation (its operating revenue in calendar year 1976 was $189,000), its proposals are not rejectable because of lack of justification (see Part 221.165 and .180 of the Board's Economic Regulations).

[3] E. g., Orders 77-7-109, 77-7-15, 76-3-88, 75-3-125, 74-5-121, and prior orders cited therein.

[4] Emery Air Freight Corp., Burlington Northern Air Freight, Inc., Novo Airfreight Corporation, and Bor-Air Freight Co., Inc., have minimum charges on C.O.D. shipments of $2.00; Shulman Air Freight, Inc., has a $2.50 minimum charge; and other forwarders in our sample (Airborne Freight Corporation, WTC Air Freight, Jet Air Freight, CF Air Freight, Inc., and 132 small forwarders participating in the Miller Traffic Service, Inc., tariffs) have $4.00 minimums.

[5] For example, see Orders 77-5-110, 77-4-104, 76-7-120 and prior related orders.

[6] All members concurred except Member West who did not participate. Chairman Kahn filed the attached concurrence. Concurring statement filed as part of the original document.

the fact that the proposed increases would have placed Western Air Lines, the only U.S. carrier serving this market, in a substantial excess-earnings position.

Western subsequently filed tariff revisions to be ecective August 1, 1977, which would increase first-class fares by 6.2 percent and economy and discount fares by 2.4 percent.[1] Western expects an overall increase of 2.9 percent in Mexico passenger revenues if these fares go into effect, in contrast to a 6.5 percent revenue increase anticipated from the previously proposed IATA increases.

Western experts returns of 8.7 and 12.7 percent under present and proposed fares, respectively, for the forecast year ending March 31, 1978, according to its latest justification.[2] In support of its filing, Western states that it has not received a fare increase in this market since January 1974, despite the fact that other carriers have been permitted increases totaling 18 percent; that the anticipated cost increases throughout 1977 and 1978 will significantly affect its U.S.-Mexico transborder operations; and that the proposed fares will at best enable it to maintain only a reasonable level of profitability.

Upon full consideration of the tariff filing and all other relevant matters, the Board finds that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the proposed fares should be suspended pending investigation.

The proposed fares, according to Western's analysis, will result in a return on investment in excess of the Board's 12-percent benchmark. The carrier has offered no persuasive argument why passengers should be required to pay excessive fares. Moreover, Western has apparently overstated the amount of investment allocated to its Mexico services, thereby understating its return on investment. Using the methodology developed by the Board in Phases 7 and 9 of the Domestic Passenger-Fare Investigation, Docket 21866, (DPFI) for allocating system investment to specific ratemaking entities, Western's investment pertaining to its Mexico operations is $9.3 million for the year ending March 31, 1977, as opposed to the $12.3 million used by Western in its justification.[3] On this basis, Western's return on investment for the year ending March 31, 1977, is 12.7 percent, which indicates that current fares have provided more than an adequate return.

Western's forecast returns of 8.7 and 12.7 percent under present and proposed fares, respectively, for the year ending March 31, 1978, were based on a forecast investment base constructed by assuming that the percentage change in investment is equivalent to the percentage change in capacity offered. Without pausing to point out the deficiencies in this method of estimating future investment, we note that application of this method to the historical investment for the year ending March 31, 1977, constructed by the DPFI method, gives a forecast investment base of $9.8 million in contrast to Western's figure of $12.9 million. With forecast investment of $9.8 million the carrier would earn returns of 11.4 and 16.7 percent under present and proposed fares, respectively.

The above calculations clearly demonstrate that Western has not made a case for its proposed fare increase.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 403, 404, 801, and 1002(j) thereof:

*It is ordered*, That:

1. An investigation be instituted to determine whether the fares and provisions set forth in Appendix A, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the fares and provisions of the tariff pages specified in Appendix A are suspended and their use deferred from August 1, 1977, to and including July 31, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[4] and shall become effective on August 1, 1977;

4. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place to be designated; and

5. A copy of this order be filed in the aforesaid tariffs and be served upon Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
*Secretary.*

APPENDIX A

TARIFF C.A.B. NO. 118, ISSUED BY WESTERN AIR LINES, INC.

On 1st Revised Pages 10-A and 10-B, Rule No. 7;

On 20th Revised Page 12, 2nd 18th Revised Page 13 all added and increased fares;

On 11th Revised Page 14, the increased 40-Passenger Group Inclusive Tour Basing fares, and the added 40-Passenger Advance Purchase Group Fares.

[4] This order was submitted to the President on July 25, 1977.

APPENDIX B.—*Western Air Lines' United States-Mexico scheduled passenger service*[1] *(000)*

| | Historical Y.E. Mar. 31, 1977 | | Forecast Y.E. Mar. 31, 1978 | |
|---|---|---|---|---|
| | Carrier | Adjusted | Present fares | Proposed fares |
| Revenue passenger, miles | 578,859 | 578,859 | 611,010 | 611,010 |
| Available seat miles | 938,716 | 938,716 | 991,260 | 991,260 |
| Load factor, percent | 61.7 | 61.7 | 61.6 | 61.6 |
| Total operating revenues | $36,740 | $36,740 | $38,804 | $39,899 |
| Total operating expenses | 34,995 | 34,995 | 37,143 | 37,248 |
| Operating profit (loss) | 1,745 | 1,745 | 1,661 | 2,651 |
| Non-operating income (expense) net | 571 | 571 | 546 | 546 |
| Net income before tax | 1,174 | 1,174 | 1,115 | 2,015 |
| Income tax (Cr.) at 48 pct | 564 | 564 | 535 | 1,010 |
| Income after tax | 610 | 610 | 580 | 1,095 |
| Add: interest expense | 571 | 571 | 546 | 546 |
| Return element | 1,181 | 1,181 | 1,126 | 1,641 |
| Investment | 12,252 | [2] 9,319 | 12,938 | 12,938 |
| R.O.I., percent | 9.64 | 12.67 | 8.70 | 12.68 |

[1] Revenue, offset method.
[2] See Appendix C.

APPENDIX C.—*Computation of Western's investment for its United States-Mexico scheduled service (000) historical Y.E. Mar. 31, 1977*

| | System Recognized Investment Base | | Allocation to Latin America Scheduled Passenger Service | |
|---|---|---|---|---|
| | Carrier | DPFI | Carrier | DPFI |
| Working capital | $9,915 | $9,915 | $608 | $348 |
| Flight equipment, net | 259,777 | 259,777 | 11,919 | 9,129 |
| Ground equipment, net | 36,190 | 36,190 | 1,513 | 1,272 |
| Construction work in progress | 8,034 | 8,034 | 336 | 282 |
| Special funds, other-net | | 339 | | 11 |
| Investment and special funds-net | 616 | | 38 | |
| Deferred charges | 3,606 | 3,606 | 222 | 127 |
| Subtotal | 318,138 | 317,861 | 14,636 | 11,169 |
| Other credits | (4,888) | | (300) | |
| Deferred income tax | (45,589) | | (2,084) | |
| Carrier total investment | 267,661 | | 12,252 | |
| Total investment, DPFI | | [1] 265,193 | | [2] 9,319 |

[1] Subtotal times .83431 which represents the ratio of recognized sources to total sources.

[1] Western Air Lines, Inc., International Passenger Tariff No. 3, C.A.B. No. 118.
[2] See Appendix B.
[3] See Appendix C.

[FR Doc.77-23080 Filed 8-10-77;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Volume No. 29]

### PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

### Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

AUGUST 5, 1977.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g., M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petioner's representative, or petitioner if no representative is named.

No. MC 111729 (Sub-Nos. 535, 538, 542, 547, 557 and 565), M1 (Notice of Filing of Petition to Modify a Restriction), filed June 17, 1977. Petitioner: PUROLATOR COURIER CORP., 333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Petitioner's representative: Peter A. Greene, 900 17th Street NW., Washington, D.C. 20006. Petitioner holds motor *common carrier* Certificates in No. MC 111729 (Sub-Nos. 535, 538, 542, 547, 557 and 565), issued December 1, 1976 (as corrected); September 17, 1976 (Sub-Nos. 538 and 542); November 26, 1976; March 10, 1977, and May 18, 1977, respectively, authorizing transportation as follows:

(A) In the 535 Certificate—over irregular routes of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Alabama, Georgia, Mississippi, and Tennessee; and (2) between points in Alabama, Georgia, and Mississippi, on the one hand, and, on the other, points in Florida subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds, with each package or article considered as a separate and distinct shipment" By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "with each package or article considered as a separate and distinct shipment."

(B) In the Sub 538 Certificate—over irregular routes, of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Colorado and New Mexico subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds, and each package or article shall be considered a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "and each package or article shall be considered a separate and distinct shipment."

(C) In the Sub 542 Certificate—over irregular routes, of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, commercial papers, documents and written instruments as are used in the business of banks and banking institutions, and stocks, bonds, securities, and negotiable instruments), between points in Connecticut, New Jersey and New York, on the one hand, and, on the other, points in Delaware, and Maryland, and the District of Columbia subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds, with each package or article considered a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "with each package or article considered a separate and distinct shipment."

(D) In the Sub 547 Certificate—over irregular routes, of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, commercial papers, documents, and written instruments as are used in the business of banks and banking institutions, stocks, bonds, securities and negotiable instruments), (1) between points in Georgia, North Carolina, South Carolina, and Virginia; and (2) between points in North Carolina and South Carolina, on the one hand, and, on the other, points in West Virginia subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds, with each package or article considered to be a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "with each package or article considered to be a separate and distinct shipment."

(E) In the Sub 557 Certificate—over irregular routes, of *general commodities* (except household goods, commodities in bulk, explosives, articles of unusual value, and commodities which because of their size and weight require special equipment, and commercial papers, documents and written instruments as are used in the business of banks and banking institutions), (1) between points in Kentucky, Ohio, and West Virginia; and (2) between points in Kentucky, Missouri, and Tennessee; and (3) between points in Ohio, on the one hand, and, on the other, points in New York and Pennsylvania subject to several restrictions including the following: "Restricted against the transportation of packages weighing more than 50 pounds and each package or article shall be considered a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "and each package or article shall be considered a separate and distinct shipment."

(F) In the Sub 565 Certificate—over irregular routes, of *general commodities* (except household goods, commodities in bulk, explosives, articles of unusual value, and commodities which because of their size and weight require special equipment; and commercial papers, documents and written instruments as are used in the business of banks and banking institutions, shipments with a prior or subsequent movement by air, and motion picture film used primarily for commercial theater exhibitions), (1) between points in Arkansas, on the one hand, and, on the other, points in Louisiana and those in that part of Mississippi south of U.S. Highway 80, serving no point nor the commercial zone, as defined by the Commission, of any point on such highway; (2) between points in Mississippi, on the one hand, and, on the other, points in Louisiana (except New Orleans and its commercial zone, as defined by the Commission); and (3) between points in Shelby County, Tennessee, on the one hand, and, on the other, points in Louisiana subject to several restrictions including the following: "Restricted against the transportation of packages weighting more than 50 pounds and each package or article shall be considered a separate and distinct shipment." By the instant petition, petitioner seeks to modify the foregoing restriction by deletion of the phrase "and each package or article shall be considered a separate and distinct shipment."

Petitioner states that the proposed modifications to the above-described certificates will not affect the present weight limitations but will only eliminate unnecessary multiple documentation and assessment of multiple per shipment minimum charges.

No. MC 116101 (Sub-No. 2), M1 (Notice of filing petition to modify restriction in certificate), filed June __, 1977.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Petitioner: QUICK AIR FREIGHT, INC., Cargo Building, Port Columbus Airport, Columbus, Ohio 43219.

Petitioner's representative: Russell S. Bernhard, 1625 K Street, NW., Washington, D.C. 20006. Petitioner holds a motor *common carrier* certificate, No. MC 116101 (Sub-No. 2) issued February 27, 1968, authorizing transportation over irregular routes of *general commodities*, moving in express service, except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between points in Adams, Allen, Ashland, Athens, Champaign, Clark, Clermont, Clinton, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Greene, Guernsey, Hardin, Highland, Hocking, Jackson, Knox, Licking, Logan, Madison, Marion, Montgomery, Morgan, Morrow, Muskingum, Perry, Pickaway, Pike, Richland, Ross, Union, Vinton, Wayne, and Wyandot Counties, Ohio on the one hand, and, on the other, points in Illinois, Indiana, Michigan (except points in the Upper Peninsula), New York, and Pennsylvania. Restriction: The operations authorized herein are restricted to the exclusive use of one motor vehicle in the transportation of a single shipment, not weighing more than 5,000 pounds, from one consignor at one location to one consignee at one location in any one day. By the instant petition, petitioner seeks to have the restriction modified by excluding therefrom traffic having a prior or subsequent movement by aircraft.

No. MC 116763 (Sub-No. 283G), M1, (Notice of filing of petition to modify territorial description), filed July 19, 1977. Petitioner: CARL SUBLER TRUCKING, INC., P.O. Box 81, Versailles, Ohio 45380. Petitioner's representative: H. M. Richters (same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 116763 (Sub-No. 283G), issued April 16, 1975, authorizing transportation over irregular routes, as pertinent, of *woodpulp, dishes, plates,* and *trays,* from the plant site and warehouse of the Keyes Fibre Company at Waterville and Portland, Maine, to points in Florida, Georgia, and those in that part of Oklahoma on and east of Interstate Highway 35. By the instant petition, petitioner seeks to modify the territorial description above by the deletion of Portland, Maine, and the substitution of Lewiston, Maine in lieu thereof.

No. M C119192 (Sub-No. 10), M1, (Notice of filing of petition to add an additional contracting shipper), filed June 17, 1977. Petitioner: EASTERN DELIVERY SERVICE, INC., 80 Central Ave., Bridgeport, Conn. 06607. Petitioner's representative: Morton R. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Petitioner holds a motor *contract carrier* Permit in No. MC 119192 (Sub-No. 10), issued July 19, 1973, authorizing transportation, over irregular routes, of (1) *Such commodities* as are dealt in by department stores, and *materials, supplies, and equipment* (except in bulk), used in the conduct of such business, from New York, N.Y., and points in Nassau and Westchester Counties, N.Y., Bergen and Essex Counties, N.J., and Fairfield County, Conn., to New York, N.Y., and points in New Jersey and Connecticut, and Westchester, Dutchess, Putnam, Rockland, Orange, Sullivan, Nassau, and Suffolk Counties, N.Y.; and (2) *return shipments* of the commodities specified in (1) above, from New York, N.Y., and points in New Jersey and Connecticut, and Westchester, Dutchess, Putnam, Rockland, Orange, Sullivan, Nassau and Suffolk Counties, N.Y., to New York, N.Y., and points in Nassau and Westchester Counties, N.Y., Bergen and Essex Counties, N.J., and Fairfield County, Conn., restricted in parts (1) and (2) against the transportation of traffic originating at and destined to points in Connecticut, under a continuing contract or contracts with B. Altman & Company, New York, N.Y. By the instant petition, petitioner seeks to add "John Wanamaker, Philadelphia" as an additional contract shipper to the above authority.

No. MC 119789 (Sub-No. 252), (Notice of filing of petition to add an origin point), filed June 13, 1977. Petitioner: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Petitioner's representative: James K. Newbold, Jr. (Same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 119789 (Sub-No. 252), issued August 23, 1976, authorizing transportation, over irregular routes, of *Electrical equipment and parts* (except household appliances) from West Union, S.C., to Kansas City, Kans., and points in Arizona, Arkansas, California, Colorado, Idaho, Indiana, Minnesota, Mississippi, Missouri, Montana, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wisconsin and Wyoming. By the instant petition, petitioner seeks to modify the Certificate by adding the origin point of Pickens, S.C.

No. MC 123476 (Sub-No. 18), M1, (Notice of filing of petition to broaden commodity description), filed July 14, 1977. Petitioner: CURTIS TRANSPORT, INC., P.O. Box 388, 3616 Jeffco Blvd., Arnold, Mo. 63010. Petitioner's representative: David G. Dimit (Same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 123476 (Sub-No. 18), issued April 18, 1974, authorizing the transportation over irregular routes, of *plastic foam egg cartons,* from the plant site and warehouse facilities of Dolco Packaging Corporation at or near Lawrenceville, Ga., to points in that part of the United States on and east of U.S. Highway 85. By the instant petition, petitioner seeks to broaden the commodity description above to read "styrofoam shapes and forms, and expanded plastic products" in lieu of plastic foam egg cartons.

No. MC 124004 (Sub-Nos. 27 and 28), M1, (Notice of filing of petition to broaden commodity description), filed July 19, 1977. Petitioner: RICHARD DAHN, INC., 620 W. Mountain Rd., Sparta, N.J. 07871. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds motor *common carrier* Certificates No. MC 124004 (Sub-Nos. 27 and 28), issued July 10, 1975 and September 24, 1976, respectively, authorizing transportation (1) in MC 124004 (Sub-No. 27), as pertinent, over irregular routes, of (a) *Animal, poultry, and pet feed ingredients and cracklings,* between points in Pennsylvania, New Jersey, and New York, on the one hand, and, on the other, points in Virginia and North Carolina; from points in Pennsylvania, Maryland, Delaware, North Carolina, New York, and New Jersey to points in Ohio, Indiana, Minnesota, Illinois, Wisconsin, and Michigan; and between points in New York, New Jersey, and Pennsylvania; (b) *Animal and poultry feed ingredients,* from points in Virginia and Massachusetts, to Philadelphia, Pa.; and from points in Pennsylvania, to points in Indiana, Minnesota, Illinois, Wisconsin, Iowa, and Michigan; and (c) *Animal, poultry, and pet feed ingredients,* from points in Rhode Island, to points in New York, restricted against the transportation of salt and commodities in tank vehicles; (2) in 124004 (Sub-No. 28) as pertinent, over irregular routes, of (a) *Dry animal and poultry feed,* from the facilities of John W. Eshelman & Sons, located at or near Circleville, Ohio, to points in Connecticut, Delaware, Maryland, North Carolina, New York, Pennsylvania, Virginia, Vermont, and West Virginia; and (b) *dry animal and poultry feed ingredients,* in bulk, from points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, and Wisconsin, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Virginia, Vermont, and West Virginia. By the instant petition, petitioner seeks to broaden the commodity description in (1)(a), (b), and (c) above to include *feed*; and in (2)(a) above to include *feed ingredients*; and (2)(b) above to include *feed.*

No. MC 125335 (Sub-No. 2), (M1), (Notice of Filing of Petition to delete restriction), filed June 27, 1977. Petitioner: GOOD-WAY, INC., P.O. Box 2283, York, Pa. 17405. Petitioner's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Petitioner holds a motor *common carrier* Certificate in NO. MC 125335 (Sub-No. 2), issued May 14, 1971, authorizing transportation, as pertinent, over irregular routes, of Frozen foods, (except dressed poultry), (1) from Staunton and Winchester, Va., and points in Rockingham County, Va., to points in Alabama, Connecticut, Florida (except that no shipment shall be transported to a point in Florida that is not a portion of truckload which has been partially unloaded at some point north of Florida), Georgia, Illinois, Indiana, Iowa, Louisiana, Mas-

sachusetts, Michigan, Minnesota, Nebraska, Rhode Island, and Wisconsin; and (2) from Staunton and Winchester, Va., and points in Rockingham County, Va., (except Broadway, Va., and points within 2 miles thereof), to points in Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, North Carolina, West Virginia, South Carolina, Kentucky, Tennessee, and the District of Columbia, restricted in (2) above, against the transportation of apples and peaches from points in Rockingham County, Va., other than Timberville, Va., and points within 10 miles thereof, to Washington, D.C., and Baltimore, Md., and from points in Rockingham County, Va., to Philadelphia, Pa., and New York, N.Y.

By the instant petition, petitioner seeks to delete the restriction in (1) above which reads: "except that no shipment shall be transported to a point in Florida that is not a portion of truckload which has been partially unloaded at some point north of Florida".

No. MC 138235 (Sub-No. 6), M1, (Notice of filing of petition for modification of permit), filed July 19, 1977. Petitioner: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton Plains, N.J. 07444. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *contract carrier* Permit in No. MC 138235 (Sub-No. 6), issued July 7, 1977, authorizing transportation, as pertinent, over irregular routes, of *Appliances and garden machinery, parts and accessories* therefor, and *materials, supplies, and equipment* used in the installation of such commodities (except commodities in bulk and those which require the use of special equipment), between the facilities of J. C. Penney Company, Inc., located at or near Anderson, Ind., on the one hand, and, on the other, the stores and distribution centers of J. C. Penney Company, Inc., located at or near various named points, under a continuing contract or contracts with J. C. Penney Co., Inc., of New York, N.Y. By the instant petition, petitioner seeks to modify its authority by reading, as pertinent, Between the facilities of J. C. Penney Company, Inc., located at or near Anderson, Ind., on the one hand, and, on the other, the stores, *vendors* and distribution centers of J. C. Penney Company, Inc., located at or near various named points, under a continuing contract or contracts with J. C. Penney Co., Inc., of New York, N.Y.

No. MC 139261M1, (Notice of filing of petition to add an additional contract shipper), filed July 20, 1977. Petitioner: BUCKEYE EXPRESS, INC., H and 1st Street, Willis Day Industrial Park, P.O. Box 368, Perrysburg, Ohio 43551. Petitioner's representative: Michael M. Briley, 300 Madison Avenue, P.O. Box 2088, Toledo, Ohio 43604. Petitioner holds a motor *contract carrier* Permit in No. MC 139261, issued December 23, 1974, authorizing transportation, over irregular routes, of (1) *Such merchandise* as is dealt in by wholesale, retail, chain grocery, and food business houses, institutions, catalogue show room stores, and home center stores, (except commodities in bulk), and (2) *equipment materials, and supplies* used in the preparation and distribution of the commodities described in (1) above, (except commodities in bulk), between Perrysburg, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with International Automated Machines, Inc., located at Perrysburg, Ohio.

By the instant petition, petitioner seeks to add Seaway as an additional contract shipper to the above authority.

## Republications of Grants of Operating Rights Authority Prior to Certification

### NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadended grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(d) of the Commission's "General Rules of Practice" (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose of republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No MC 65697 (Sub-No. 51) (partial republication), filed July 6, 1976, published in the Federal Register issue of September 2, 1976, and republished this issue. Applicant: THEATRES SERVICE COMPANY, a Corporation, P.O. Box 1695, Atlanta, Ga. 30301. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. An Order of the Commission, Review Board Number 4, dated July 14, 1977, and served July 22, 1977, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of the transportation in (2) of *televisions, wood and metal stands, speakers, and parts and accessories therefor*, between points in Alabama, Georgia, and Tennessee; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this partial republication is to broaden the territorial description by reflecting service between points in Alabama, Georgia, and Tennessee.

No. MC 78687 (Sub-No. 45), (republication), filed February 15, 1977, published in the Federal Register issue of February 24, 1977, and republished this issue. Applicant: LOTT MOTOR LINES, INC., 118 Monell Street, Penn Yan, N.Y. 14527 Applicant's representative: E. Stephen Heisley, Suit 805, 666 Eleventh Street NW., Washington, D.C. 20001 The Initial Decision of the Administrative Law Judge, dated May 12, 1977, and served May 24, 1977, became the order of the Commission by notice dated June 23, 1977, and served July 22, 1977; said Initial Decision finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *foods, food products, food ingredients, animal foods, animal food ingredients, meat by-products, and products* requiring mechanical refrigeration (except in bulk), between the warehouse facilities of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destinations; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the addition of the commodities "animal foods, animal food ingredients, and meat by-products" to applicant's grant of authority.

No. MC 94350 (Sub-No. 369) (republication), filed October 8, 1976, published in the Federal Register issue of November 11, 1976, and republished this issue. Applicant: TRANSIT HOMES, INC., Haywood Rd. at Transit Drive, P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). A Decision and Order of the Commission, Review Board Number 3, dated June 2, 1977, and served June 23, 1977, authorizes service, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *Buildings*, in sections, mounted on wheeled undercarriages, from points in California to points in Arizona, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington, restricted to the transportation of shipments from points other than origins of manufacture. The purpose of this republication is to indicate the deletion of the restriction "except modular units and prefabricated buildings".

No. MC 110325 (Sub-No. 74) (republication), filed May 21, 1976, published in the Federal Register issue of August 26,

1976, and republished this issue. Applicant: TRANSCON LINES, 101 Continental Blvd., El Segundo, Calif. 90009. Applicant's representative: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, Mo. 64105. A report of the Commission, Review Board Number 5, decided April 25, 1977, and served June 8, 1977, requires applicant to convert the following Certificates of Registration which authorize operations in intrastate commerce, over regular and irregular routes, as a *common carrier*, of (1) regular routes: *General commodities* (except used household goods, commodities in bulk and Class A and B explosives), between Chattanooga, Tenn., and Knoxville, Tenn.: (a) over U.S. Highway 11.; and (b) over Interstate Highway 75 using such access routes as may be convenient between those portions of Interstate Highway 75 which are completed and U.S. Highway 11; serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's otherwise existing authority; and (2) irregular routes: *General commodities* (except used household goods and commodities in bulk), between points in Cumberland, White and Van Buren and Putnam Counties, Tenn., restricted against service to those points located on or within one airline mile of Tennessee Highway 24 between its junction with Tennessee Highway 56 and the Commercial Zone limits of Cookeville, the said authority granted herein to be used in conjunction with all of applicant's existing authority only. The purpose of this republication is to convert a Certificate of Registration in No. MC 28893 (Sub-No. 19 and 20) to a Certificate of Public Convenience and Necessity. This is a matter directly related to MC–F–12843.

No. MC 111812 (Sub-No. 527) (republication), filed January 6, 1977, published in the FEDERAL REGISTER issue of February 24, 1977, and republished this issue. Applicant: MIDWEST COAST TRANSPORT, INC., 900 West Delaware, P.O. Box 1233, Sioux Falls, S. Dak. 57104. Applicant's representative: Ralph H. Jinks (same address as applicant). An order of the Commission, Review Board Number 3, dated June 8, 1977, served June 24, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *electric ranges and microwave ovens* from the facilities of Litton Microwave Cooking Products at Sioux Falls, S. Dak., to points in Arizona, California, Montana, New Mexico, Oregon, Utah, and Washington, restricted to the transportation of shipments originating at the above named origin, and (2) *commodities* used in the manufacture of electric ranges and microwave ovens, including materials, supplies, and accessories related thereto from points in Arizona, California, Montana, New Mexico, Oregon, Utah, and Washington to the facilities of Litton Microwave Cooking Products at Sioux Falls, S. Dak., restricted to the transportation of shipments destined to the facilities of Litton Microwave Cooking Products at Sioux Falls, S. Dak.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate applicant's inbound service of commodities used in the manufacture of electric ranges and microwave ovens, including materials, supplies, and accessories related thereto from the points named above to the facilities of Litton Microwave Cooking Products at Sioux Falls, S. Dak., in lieu of the transportation of electric ranges and microwave ovens and such commodities as are used in the manufacture of electric ranges and microwave ovens, including materials, supplies, and accessories related thereto, from the plantsite and storage facilities utilized thereto, from the plantsite and storage facilities utilized by Litton Microwave Cooking Products located at Sioux Falls, S. Dak., to points in Arizona, California, Montana, New Mexico, Oregon, Utah and Washington, restricted to traffic originating at the above named origins as previously published.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's "General Rules of Practice" (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order wkhich will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 381 (Sub-No. 10) filed June 23, 1977. Applicant: GENOVA EXPRESS LINES, INC., P.O. Box 136, Williamstown, N.J. 08094. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07036. Authority sought to operate as a *common carrier* in interstate commerce, transporting: *Non Ferrous Metals* for remelting purposes only, from the facilities of Colonial Metals Co., located at or near Columbia, Pa. to points in Arkansas, restricted to shipments having origin and destination at the above named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 730 Sub 407, filed June 21, 1977. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO. (A Corporation), P.O. Box 958, Oakland, Calif. 94602. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Crude oil, in bulk, in tank vehicles from Nye County, Nevada to points in California.

NOTE.—Common control may be involved. If hearing is deemed necessary, the applicant requests it be held in Denver, Colo., or San Francisco, Calif.

No. MC 730 (Sub-No. 408), filed June 22, 1977. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic* (polyester resin), in bulk, in tank vehicles, from Oxnard, Calif., to Swansboro, N.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either San Francisco or Los Angeles, Calif.

No. MC–2368 (Sub-No. 64), filed June 27, 1977. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deep-

water Terminal Rd., P.O. Box 495, Richmond, Va. 23204. Applicant's representative: William T. Marshburn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: animal oils, meat byproducts and packinghouse byproducts in bulk, in tank vehicles from Bristol and Salem, Va., to points in Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC-2900 (Sub-No. 306), filed June 21, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32209. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over *regular routes*, transporting: *General Commodities*, (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk and those requiring special equipment): Serving the plantsite and warehouse facilities of Madison Furniture Co., Division of RCA Corporation, located at or near Canton, Miss., as an off route point in connection with applicant's presently authorized regular routes.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.; Atlanta, Ga.; or Washington, D.C.

No. MC-2960 (Sub-No. 11), filed June 24, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney Street, Houston, Texas 77023. Applicant's representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *telephone communication equipment, cable, telephone switchboards*, from the plantsite and warehouse facilities of Source, Inc. at Dallas and San Angelo, Texas to Houston, Texas. Restricted to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas or Houston, Tex.

No. MC-2960 (Sub-No. 12), filed June 24, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *roofing material, composition shingles, rolled roofing, roofing compounds and accessories*, from the plantsite of Elk Roofing Company located at Stephens, Ark., and Elk Roofing Company's storage facilities located in East Camden, Ark., to points in Alabama, Louisiana, Mississippi, Texas, Oklahoma, Tennessee, and Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant request that it be held at Dallas, Tex., or Shreveport, La.

No. MC-2960 (Sub-No. 13), filed June 24, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting new *carpet padding*, from the plantsite and warehouse facilities of General Felt Industries, Inc., at Dallas, Tex. to Houston, Tex. Restricted to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas or Houston, Tex.

No. MC-9251 (Sub-No. 4), filed May 27, 1977. Applicant: S & M TRUCK LINE, INC., 510 North Water Street, Silverton, Oreg. 97381. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23d Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, 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, commodities requiring special equipment), between Silverton, Oreg., and Stayton, Oreg., serving all intermediate points, and off route points of Aumsville, Victor Point School and points within five miles of specified Hwys. (1) from Silverton over Marion County roads (passing by Evergreen School and Rock Point) to Stayton and return over the same route, (2) from Silverton over Oregon State Hwy. 214 to Junction with Marion County roads at Rock Point; thence over Marion County roads to Stayton, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salem, Oreg.

No. MC-19157 (Sub-No. 43), filed June 21, 1977. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., R.D. 3, Box 4, Campbell Road, Schenectady, N.Y. 12306. Applicant's representative: Paul Montarello (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clothing articles and materials and supplies* used in the manufacture, distribution, sale, cleaning and repairing of clothing (except in bulk) between Hamilton, Ala., on the one hand, and, on the other, points in the United States (except Alabama and Hawaii).

NOTE.—Common control may be involved If a hearing is deemed necessary, the Applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC-25798 (Sub-No. 296), filed June 23, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., Post Office Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic Beverages and Grape Concentrate* (except in bulk, in tank vehicles) from points in California to points in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC-26396 (Sub-No. 149), filed June 22, 1977. Applicant: POPELKA TRUCKING COMPANY, dba. THE WAGGONERS (A Corporation) P.O. Box 990, Livingston, Montana 59047. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Asbestos wallboard, insulation board, and roofing and insulation materials, from the facilities of Johns-Manville Sales Corporation at or near Waukegan, Ill., and the facilities of Johns-Manville Perlite Corporation at or near Joliet, Ill., to points in Kansas, Minnesota, Nebraska, North Dakota, South Dakota, Montana, Colorado, and Wyoming; (2) asbestos cement pipe, from the facilities of Johns-Manville Sales Corp. at or near Waukegan, Ill., to points in Kansas, Minnesota, Nebraska, North Dakota, and South Dakota; (3) plastic pipe and fittings, (a) from the facilities of Johns-Manville Sales Corp. at or near Jackson, Tenn., to points in Iowa, Missouri, Kansas, Nebraska, Minnesota, South Dakota, and North Dakota; and (b) from the facilities of Johns-Manville Sales Corp. at or near Wilton, Iowa, to points in Colorado, Utah, Wyoming, and Montana. Restrictions: Restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment. Further restricted to traffic originating at the named origin points and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 41915 (Sub-No. 40), filed June 27, 1977. Applicant: MILLER'S MOTOR FREIGHT, INC., 1060 Zinn's Quarry Road, York, Pennsylvania 17405. Applicant's representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, D.S. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Petroleum, petroleum products, vehicle body sealer*, and *sound deadening compounds*, except in bulk, from New Kensington, Pennsylvania to points in Delaware, Maryland, New Jersey, New York, North Carolina, South Carolina and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 47171 (Sub-No. 93), filed June 13, 1977. Applicant: Cooper Motor Lines, Inc., P.O. Box 4259, Greenville, South Carolina 29608. Applicant's representative: Harris G. Andrews (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Asheville, Canton, Waynesville, North Carolina to points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, and Washington, D.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC 47583 (Sub-No. 52), filed June 23, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kansas 66115. Applicant's representative D. S. Hults, P.O. Box 225, Lawrence, Kansas 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose insulation*, in bags, *blowing machines and replacement parts and supplies* for blowing machines, from the plant site and storage facilities of General Fiber Corporation, at or near Dallas, Tex. to points in Arizona, Arkansas, Colorado, Louisiana, Mississippi, New Mexico, Oklahoma and Tennessee, and (2) *Materials, Equipment and Supplies* used in the manufacture and distribution of cellulose insulation, except commodities in bulk, from points in Arizona, Arkansas, Colorado, Louisiana, Mississippi, New Mexico, Oklahoma and Tennessee, to the plantsite and storage facilities of General Fiber Corporation, at or near Dallas Texas.

NOTES—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 48958 (Sub-No. 134), filed June 28, 1977. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, Colorado, 80216. Applicant's representative: LEE E. LUCERO (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged meats and meat products*, in mechanically refrigerated equipment, from the plant site and storage facilities of Land O' Frost, Inc., at or near Searcy, Arkansas, to points in Arizona, California, Colorado, New Mexico and Texas.

NOTE:—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebraska, or Kansas City, Missouri.

No. MC 51146 (Sub-No. 501), filed June 9, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wisc. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wisc. 54304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by department stores (except food stuffs and commodities in bulk), and (2) *Foodstuffs* (except commodities in bulk) moving in mixed loads with the commodities described in (1) above, from points in Ariz., Ark., Calif., Colo., Idaho, Ill., Iowa, Kans., La., Minn., Mo., Mont., Nebr., Nev., N.M., N. Dak., Okla., Oreg., S. Dak., Tex., Utah, Wash., Wis., and Wyo to the sites of stores and other facilities of Shopko Stores, Inc. located at points in Minnesota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan and to the sites of stores and other facilities of H.C. Prange Co. located at Rockford, Ill.; Traverse City, Mich.; and points in Wisconsin and the Upper Peninsula of Michigan; and (3) *Furniture* (except furniture moving in mixed loads with such merchandise as is dealt in by department stores), from points in Ala., Conn., Del., Fla., Ga., Ind., Ky., Maine, Md., Mass., Mich., Miss., N.H., N.J., N.Y., N.C., Ohio Pa.,, R.I., S.C., Tenn., Vt., Va., W. Va., and the District of Columbia to the sites of stores and other facilities of Shopko Stores Inc. located at points in Minnesota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan and to the sites of stores and other facilities of H. C. Prange Co. located at Rockford, Ill.; Traverse City, Mich.; and points in Wisconsin and the Upper Peninsula of Michigan. Restriction: The authority granted herein is restricted to traffic destined to the stores or other facilities of Shopko Stores, Inc. or H.C. Prange Co. located at the referred-to destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 505), filed June 23, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts*, and *articles* distributed by meat packing firms, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *Foodstuffs* when moving with commodities described in (1) above, from the plantsite and storage facilities of Oscar Mayer & Company at or near Madison, WI to points in Conn., Del., Maine, Md., Mass., N.H., N.J., N.Y., Pa., R.I., Vt., Va., W. Va., and the District of Columbia. Restricted to the transportation of traffic originating at the described plantsite and storage facilities and destined to points in the abovenamed states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 506), filed June 27, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers*, and *container ends* and *accessories*, from Perrysburg, OH to points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 52869 (Sub-No. 97), filed June 17, 1977. Applicant: NORTHERN TANK LINE, a Corporation. P.O. Box 970, Miles City, Montana 59301. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, North Dakota 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce. transporting: *Petroleum products*, in bulk, in tank vehicles, from points in McHenry County, North Dakota, to points in Montana, Wyoming, South Dakota and Minnesota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minnesota, or Billings, Montana.

No. MC 59117 (Sub-No. 56), filed June 27, 1977. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, Oklahoma 74301. Applicant's representative: Wilburn Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Minerals, mineral mixtures*, and *feed*, and *fertilizer materials and ingredients*, from points in Washington County, Oklahoma to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Mississippi. Missouri. Nebraska, New Mexico, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, and (2) *Urea formaldehyde resin products, and ingredients*, from points in Mayes County, Oklahoma to points in Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Tennessee, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, Oklahoma, or Dallas, Texas.

No. MC 59746 (Sub-No. 3), filed June 27, 1977. Applicant: WAMPUM HARDWARE COMPANY (A Corporation); R.D. No 1, New Galilee, Pa. 16141. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Class A, B, and C explosives, blasting materials, agents, and supplies*, from Lawrence County, Pa. to Ohio and points in West Virginia on and north of U.S. Highway No. 50, under a continuing contract or contracts with Atlas Powder Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Pittsburgh, Pa.

No. MC 66886 (Sub-56), filed June 23, 1977. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64108. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves and hydrants, and accessories thereto*, from Bessemer and Birmingham, Ala., to points in Texas, Oklahoma, Missouri, Kansas, Nebraska, Iowa and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, Ala.

No. MC 74321 (Sub-No. 131), filed June 21, 1977. Applicant: B. F. WALKER, INC., P.O. Box 17–B, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, Colo. 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution, heating and cooling equipment, and parts and accessories* for such commodities, from the plant site and facilities of the Fuller Company located at Houston, Tex., to those points in the United States in and east of Kansas, Nebraska, Oklahoma, Texas, North Dakota, and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Denver, Colo., or Houston, Tex.

No. MC 77424 (correction) (Sub-No. 40), filed June 13, 1977, published in the FEDERAL REGISTER issue of August 4, 1977, republished as corrected this issue. Applicant: WENHAM TRANSPORTATION, INC., 3200 East 79th Street, Cleveland, Ohio 44104. Applicant's representative: Daniel C. Sullivan, Esq., Singer & Sullivan, P.C., Suite 1600, 10 South LaSalle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Bicycles and tricycles; parts and accessories for bicycles and tricycles; and, materials and supplies used in the manufacture of bicycles and tricycles* (except commodities in bulk), between Celina, Ohio, and Richmond, Ind., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois. The purpose of this republication is to include two (2) additional destination states which was previously omitted.

No. MC 78400 (Sub-No. 53), filed May 26, 1977. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151—a corporation, Gerald, Mo. 63037. Applicant's representative: John E. Burruss, Jr., Central Trust Bldg., P.O. Box 1069, Jefferson City, Mo. 65101. 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, commodities in bulk, household goods, as defined by the Commission, and commodities requiring special equipment), between Linn, Missouri, and Kansas City, Kansas, serving the intermediate points of Jefferson City, Centertown, St. Martins, McGirk, California, Tipton, Syracuse, Sedalia, and Kansas City, Missouri, and the off-route points of Lohman, Russellville, High Point, Latham, Clarksburg, Otterville, Smithton, Prairie Home, Jamestown, Schubert, Bend, Bay, Cooper Hill, Hope, Frankenstein, Ryors, Taos, Freedom, Swiss, Rich Fountain, and Luyston; from Linn, Missouri, over U.S. Highway 50 to Kansas City, Kansas, and return over the same route; also, between Sedalia, Missouri, and East St. Louis, Illinois, serving the intermediate points of Syracuse, Tipton, California, McGirk, Centertown, St. Martins, Jefferson City, St. Louis, Missouri, and the off-route points of Prairie Home, Jamestown, Lohman, Russellville, Frankenstein, Ryors, Taos, Freedom, Swiss, Rich Fountain, High Point, Latham, Clarksburg, Otterville, Smithton, Bend, Bay, Cooper Hill, Hope and Luystown. Restriction: The authority requested and the authority now held by applicant shall not be tacked or combined for the purpose of performing through service between St. Louis, Missouri-Illinois, and Kansas City, Missouri-Kansas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Jefferson City, Mo.

No. MC 82841 (Sub-No. 210), filed June 22, 1977. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebraska 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 W. Center Road, Omaha, Nebraska 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut log buildings*, knocked down and materials and supplies used in the construction thereof, from the plant site of Real Log Homes located at or near Missoula, Montana, to points in Arizona, California, Colorado, Indiana, Idaho, Illinois, Iowa, Kansas, Kentucky, Minnesota, Nebraska, North Dakota, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Spokane, Wash., or Billings, Mont.

No. MC 83835 (Sub-No. 144), filed June 20, 1977. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Texas 75222. Applicant's attorney: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Texas 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Scrap Metals, between points in Texas on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, Nebraska, N. Carolina, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, S. Carolina, Tennessee, Texas, Virginia, Wisconsin, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it to be held at Dallas, Texas.

No. MC 85970 (Sub-No. 9) (Correction), filed March 7, 1977, published in the FEDERAL REGISTER issue of April 28, 1977 and republished as corrected this issue. Applicant: SARTAIN TRUCK LINE, INC., 1354 North Second Street, Memphis, Tenn. 38107. Applicant's representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (A) Regular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) Between Memphis, Tenn., and Union City, Tenn., serving all intermediate points between Dyersburg, Tenn., and Union City, including Dyersburg: From Memphis over U.S. Highway 51 to Union City, and return over the same route; (2) Between Union City, Tenn., and Dresden, Tenn., serving all intermediate points: From Union City over Tennessee Highway 22 to Dresden, and return over the same route; (3) Between Martin, Tenn., and Greenfield, Tenn., serving all intermediate points: From Martin over U.S. Highway 45–E to Greenfield and return over the same route; (4) Between Dresden, Tenn., and Gleason, Tenn., serving all intermediate points: From Dresden over Tennessee Highway 22 to Gleason and return over the same route; (5) Between Gleason, Tenn., and Greenfield, Tenn., as an alternate route for operating convenience only, in connection with carrier's regular-route operations, serving no intermediate points: From Gleason over unnumbered county road to junction Tennessee Highway 124, thence over Tennessee Highway 124 to Greenfield, and return over the same route; (6) Between Union City, Tenn., and Rutherford, Tenn., serving all intermediate points: From Union City over U.S. Highway 45–W to Rutherford, and return over the same route; (7) Between Greenfield, Tenn., and Bradford, Tenn., as an alternate route for operating convenience only, in connection with carrier's regular-route operations, serving no intermediate points: From Greenfield over U.S. Highway 45–E to Bradford, and return over the same route: (8) Between Brownsville, Tenn., and Covington, Tenn., as an alternate route for operating convenience only, in connection with carrier's regular-route operations, serving no intermediate points: From Brownsville over Tennessee High-

way 54 to Covington, and return over the same route; (9) Between Memphis, Tenn., and Bradford, Tenn., serving all intermediate points between Bells, Tenn., and Bradford, including Bells: From Memphis over U.S. Highway 79 (also portion U.S. Highway 70) to Bells, thence over Tennessee Highway 88 to Alamo, thence over Tennessee Highway 54 to Bradford, and return over the same route; (10) Between Trenton, Tenn., and Bradford, serving all intermediate points: From Trenton over U.S. Highway 45-W to Rutherford, thence over Tennessee Highway 105 to Bradford, and return over the same route; Service at Memphis, Tenn., and its commercial zone is restricted to points wholly within the state of Tennessee. (B) Irregular routes: *Printed matter* and *materials, equipment and supplies* used in the manufacture of the commodities named in (B) above, between points in Alcorn County, Miss., Weakley County, Tenn., and points in Cook County, Ill. Note: The purpose of this republication is to indicate the correct territorial and commodity description in part (B) above; and also to add the restriction in part (A) above, which reads: "Service at Memphis, Tenn., and its commercial zone is restricted to points wholly within the state of Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Nashville, Tenn., or Washington, D.C.

No. MC 88368 (Sub-No. 31), filed May 27, 1977. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, Missouri 64030. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty household goods containers*, set up and knocked down: Between points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it he held at Washington, D.C.

No. MC 88380 (Sub-No. 27), filed June 23, 1977. Applicant: REB TRANSPORTATION, INC., P.O. Box 4309, 2400 Cold Springs Road, Forth Worth, Texas 76106. Applicant's representative: John L. Payne, P.O. Box 4309, 2400 Cold Springs Road, Forth Worth, Texas 76106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as defined in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from the facilities of Chaparral Steel Company, at or near Midlothian, Texas, to points in the United States, (except Alabama, Alaska, Arkansas, Colorado, Hawaii, Illinois, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, and Texas).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas or Fort Worth, Texas.

No. MC 95008 (Sub-No. 8), filed July 1, 1977. Applicant: FISHER SERVICE TRUCKING, INC., R.D. 2, Box 456, Monticello, New York 12701. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Shirts and Pajamas, from Somerset, Pa., to New Hyde Park, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, New York.

No. MC-95540 (Sub No. 986), filed June 21, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and smoked meats*, from (1) the plantsite of Cudahy Foods Co., at or near Harrodsburg and Cynthiana, Ky., to Omaha, Nebr.; and (2) from the plantsite of Sugar Creek Packing, located at or near Dayton and Washington Court House, Ohio, to Omaha, Nebr.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.; Washington, D.C.; or Tampa, Fla.

Docket No. MC 95876 (Sub-No. 204), filed: June 21, 1977. Name of carrier: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *lumber, lumber products, wood and wood products*, from points in Idaho, Montana, Oregon and Washington, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, Pennsylvania, South Dakota and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash. Common control may be involved.

No. MC 100666 (Sub-No. 350), filed June 27, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, Louisiana 71107, applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, fencing* and *fencing materials* from Edenton, North Carolina to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma and Texas and, (2) *Lumber*, from Cove City, North Carolina to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex.

No. MC 101219 (Sub-No. 59), filed June 22, 1977. Applicant: MERIT DRESS DELIVERY, INC., 524 West 36th Street, New York, N.Y. 10018. Applicant's representative: Norman Weiss, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers, in boxes and in cartons *and accessories* used and sold in connection therewith *and materials, supplies and equipment* used in the manufacture of wearing apparel, when moving in the same vehicle and at the same time with shipments of wearing apparel on hangers, between Atlanta, Ga., on the one hand, and, on the other, points in the New York, N.Y., Commercial Zone and points in Massachusetts, Maine, New Hampshire, Connecticut and Rhode Island.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 102616 (Sub-No. 930), filed June 16, 1977. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum fuel oil*, in bulk, in tank vehicles, from Akron and Columbus, Ohio to Ravenswood, West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Chicago, Illinois.

No. MC 102616 (Sub-No. 931), filed June 22, 1977. Applicant: COASTAL TANK LINES, INC., a Corporation, 250 N. Cleveland-Massillon Road, Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid Commodities*, in bulk (except lard, fats, tallow, oil and greases (except petroleum oils and greases)), between the facilities of the Southwind Maritime Centre at or near Mount Vernon (Posey County), Indiana, on the one hand, and, on the other, points in Boone, Kenton and Campbell Counties, Kentucky, and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests tht it be held at Columbus, Ohio or Chicago, Illinois.

No. MC 103066 (Sub-No. 58), (Amendment), filed April 14, 1977, published in the FEDERAL REGISTER issue of May 12, 1977, and republished as amended this issue. Applicant: STONE TRUCKING COMPANY, a Corporation, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

ing: *Plastic foam, rubber foam, and cellulose foam,* from Bremen, Fort Wayne, Indianapolis, LaPorte, and Marion, Ind; Corry and Hazelton, Pa.; Moonachie, N.J.; and Cornelius, N.C., to points in Illinois, Indiana, Kentucky, Michigan, New Jersey, Ohio, Pennsylvania, and Tennessee, restricted against the transportation of commodities in bulk, in tank vehicles, and those which because of size or weight require special equipment.

NOTE.—The purpose of this republication is to indicate that applicant seeks authority from the named points in Indiana. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC-104896 (Sub-No. 49), filed June 21, 1977. Applicant: WOMELDORF, INC., P.O. Box G, Knox, Pa. 16232. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, Pa. 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), from the facilities of Gioia Specialty Foods, Inc., at Buffalo, N.Y., to points in Delaware, Maryland, New Jersey, Ohio, Pennsylvania, and West Virginia; and (2) *equipment, materials, and supplies*, used in the production and distribution of foodstuffs (except in bulk), from points in the above-named destination territory, to the facilities of Gioia Specialty Foods, Inc., at Buffalo, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC-105566 (Sub-No. 149), filed June 20, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehcle, over irregular routes, transporting: *Wooden or metal curtain rods with or without fixtures; curtain pole or rod fixtures, metal; steel rods, copper, brass or bronze coated; hooks, iron or steel; dry goods; cotton rope; shelving, wood; bathroom or lavatory fixtures*, other than china, earthenware, porcelainware or plated steel, from Sturgis, Mich., to points in Arizona, California, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC-106398 (Sub-No. 777), filed June 21, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull, 525 South Main, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof. Building materials, construction materials, supplies, and equipment*, from the plantsites and warehouse facilities of Penn-Dixie Steel Corp. located at or near Kokomo, Ind.; Elkhart, Ind.; Toledo, Ohio; Columbus, Ohio; Lansing, Mich.; Grand Rapids, Mich.; Denver, Colo.; Albuquerque, N. Mex.; Centerville, Iowa; Blue Island, Ill.; Joliet, Ill.; Jackson, Miss.; Nazareth, Pa.; Cabot, Pa.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Chicago, Ill.; Milwaukee, Wis.; West Des Moines, Iowa; Kingsport, Tenn.; Knoxville, Tenn.; Richard City, Tenn.; Atlanta, Ga.; Salisbury, N.C.; North Arlington, N.J.; North Judson, Ind.; Cicero, Ind.; and Newton, Kans., to all points in the United States (except Alaska and Hawaii); (2) *materials, supplies, and equipment used in the manufacture and distribution of commodities named in (1) above*, from points in the United States (except Alaska and Hawaii, to the plantsites and warehouse facilities of Penn-Dixie Steel Corp. located at or near Kokomo, Ind.; Fort Wayne, Ind.; Elkhart, Ind.; Toledo, Ohio; Columbus, Ohio; Lansing, Mich.; Grand Rapids, Mich.; Denver, Colo.; Albuquerque, N. Mex.; Centerville, Iowa; Blue Island, Ill.; Joliet, Ill.; Jackson, Miss.; Nazareth, Pa.; Cabot, Pa.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Chicago, Ill.; Milwaukee, Wis.; West Des Moines, Iowa; Kingsport, Tenn.; Knoxville, Tenn.; Richard City, Tenn.; Atlanta, Ga.; Salisbury, N.C.; North Arlington, N.J.; North Judson, Ind.; Cicero, Ind.; and Newton, Kans.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind.

No. MC-106398 (Sub-No. 778), filed June 21, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same as above. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and warehouse facilities of Wheeling Pittsburgh Steel Corp. located at Steubenville, Yorkville, and Martins Ferry, Ohio; Wheeling, Benwood, and Beech Bottom, W. Va.; and Allenport, Pa., to points in Alabama, Arkansas, Florida, Georgia, Iowa, Kansas, Louisiana, Missouri, North Carolina, Oklahoma, Texas, and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa.

Docket No. MC-107012 (Sub-No. 242), filed June 20, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representatives: David D. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toy balloons and play balls*, from the plantsite and storage facilities of National Latex Products Company, located at or near Ashland, Ohio, to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Cleveland or Cincinnati, Ohio, or Chicago, Ill.

No. MC-107295 (Sub-No. 855), filed June 27, 1977. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Paper and paper products*, from International Falls, Minn., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin; and (2) *returned or rejected shipments of paper and paper products*, from points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin, to International Falls, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Portland, Oreg., or Washington, D.C.

No. MC-107496 (Sub-No. 1091), filed June 27, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) Liquid wood preservatives, in bulk, in tank vehicles, from Valparaiso, Ind., to points in Pennsylvania, West Virginia, Ohio, Kentucky, Michigan, Illinois, Wisconsin, Iowa, Missouri, Arkansas, Maryland, Massachusetts, New York, and Tennessee; and (2) Arsenic acid, in bulk, in tank vehicles, from Bryan and Bonham, Tex., to Valparaiso, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Chicago, Ill. Common Control may be involved.

No. MC-109397 (Sub-No. 364), filed June 23, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Missouri 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled utility graders*, and *parts, attachments*, and *accessories* thereof, from Gwinnett County, Ga., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC-109397 (Sub-No. 365), filed June 23, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Missouri 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buses*, and *parts* and *accessories* moving in connection therewith, between Los Angeles County, Calif., on the one hand, and, on the other,

points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Los Angeles or San Francisco, Calif.

No. MC 109818 (Sub-No. 20), filed June 23, 1977. Applicant: WENGER TRUCK LINE, INC., P.O. Box 36, Beaver, Iowa 50031. 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: (1) a. steel bar joist; b. metal roof deck; c. metal siding; and d. accessories for the commodities named in (a), (b), and (c) from the facilities of Nucor Corporation, Vulcraft Division, located at Norfolk, Nebraska, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming; and (2) materials, equipment and supplies used in the manufacture of the commodities (except in bulk) in (1) above, from points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming, to the facilities of Nucor Corporation, Vulcraft Division, located at Norfolk, Nebraska.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebraska.

No. MC 110393 (Sub-No. 35), filed June 22, 1977. Applicant: GEM TRANSPORT, INC., 1559 E. 10th Street, Jeffersonville, Indiana 47130. Applicant's representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, Kentucky 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Foodstuffs including dairy products in vehicles equipped with mechanical refrigeration; from Plymouth, Wisconsin, to points in Virginia, Maryland, New Jersey, Delaware, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire and the District of Columbia, under a continuing contract or contracts with Borden Foods Division of Borden, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Louisville, Ky., or Cincinnati, Ohio.

No. MC 110525 (Sub-No. 1196), filed June 20, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets, resins*, and *granules*, in bulk, in tank vehicles, from the plantsite of Borg-Warner Chemicals located at points in Washington and West Virginia, to points in Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 110525 (Sub-No. 1197), filed June 23, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downington, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint Primer*, in bulk, in tank vehicles, from Garland, Texas, to Catawba, South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas or Houston, Tex.

No. MC 110525 (Sub-No. 1198), filed June 27, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting Hydrochloric Acid (muriatic acid), in bulk, in tank vehicles from Freeport, Texas to points in Louisiana and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Texas.

No. MC 111045 (Sub-No. 144), filed June 17, 1977. Applicant: REDWING CARRIERS, INC., Post Office Box 426, Tampa, Florida 33601. Applicant's representative: L. W. Fincher (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, in tank vehicles, from Muscle Shoals, Alabama; to points in Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, the Applicant requests it be held at Birmingham, Alabama. Common control may be involved.

No. MC 111302 (Sub-No. 108), filed June 27, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Applicant's representative: John R. Sims, Jr., Suite 915, 425—13th Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, in tank vehicles from the plantsite of Tennessee Eastman Company in Kingsport, Tennessee, to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held in Washington, D.C.

MC 111720 (Sub-No. 13), filed June 27, 1977. Applicant: RAY AND ARLENE WILLIAMS, a Partnership, doing business as WILLIAMS TRUCK SERVICE, P.O. Box 40, Sioux Falls, South Dakota 57101. Applicant's representative: Lyle A. Clemetson, P.O. Box 40, Sioux Falls, South Dakota 57101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat-by-products, articles distributed by meat packing plants and foodstuffs*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plant site and warehouse facilities of Geo. A. Hormel & Co., at or near Fremont, Nebraska, and Ottumwa, Iowa, to points in Virginia, West Virginia, and North Carolina, under a continuing contract, or contracts, with Geo. A. Hormel & Co.; restricted against the transportation of hides and commodities in bulk.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebraska or Minneapolis, Minnesota.

No. MC 111940 (Sub-No. 69), filed June 17, 1977. Applicant: SMITH'S TRUCK KLINES, P.O. Box 88, Muncy, Pa. 17756. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, 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, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa. or Washington, D.C.

No. MC 113024 (Sub-No. 150), filed June 17, 1977. Applicant: ARLINGTON J. WILLIAMS, INC., 1398, South Du Pont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer* (except in bulk), from Louisiana, Mo. to Burlington, N.J. under a continuing contract, or contracts with Hercules Incorporated.

NOTE.—Applicant holds motor common carrier in No. MC-135046. and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. however, modified procedure is requested.

No. MC 113678 (Sub-No. 675), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt and carbonated beverages and related advertising materials, equipment and supplies* (except commodities in bulk in tank vehicles) from Minneapolis-St. Paul, Minnesota to points in Colorado and

Wyoming restricted to traffic originating at the named points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, Minn. or Denver, Colo.

No. MC 113678 (Sub-No. 679), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen eggs and egg products*, and commodities the transportation of which is exempt from regulation as defined by Section 203(b)(6) of the Interstate Commerce Act when such commodities are moving in the same vehicle and at the same time with commodities the transportation of which is subject to full regulation by the Interstate Commerce Commission (except commodities in bulk in tank vehicles), from the facilities of Heying Foods, Inc., located at or near West Union, Iowa to points in Iowa, Colorado, Kansas, Missouri, Nebraska, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Neb. or Denver, Colo.

No. MC 113678 (Sub-No. 682), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen potatoes and frozen potato products* (except commodities in bulk in tank vehicles), from the plantsite of Northern Star Company located at Minneapolis, Minnesota to points in Florida.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis-St. Paul, Minn. or Washington, D.C.

No. MC 113678 (Sub-No. 683), filed June 27, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, hides, skins, and pieces thereof), from Buffalo Lake, Minnesota and Omaha, Nebraska to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming restricted to traffic originating at the named origins.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo. or Washington, D.C.

No. MC 113678 (Sub-No. 684) filed June 29, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colorado 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and frozen foodstuffs or feedstuffs not fit for human consumption* (except commodities in bulk in tank vehicles), between the plantsites and warehouse facilities of WISCOLD, Inc. located at Beaver Dam and Milwaukee, Wisconsin, on the one hand, and on the other, points in Alabama, Arkansas, Arizona, California, Colorado, Delaware, Georgia, Florida, Idaho, Louisiana, Maryland, Mississippi, North Carolina Nevada, New Mexico, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, restricted to traffic originating at, and destined to, the named points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, Wis., or Denver, Colo.

No. MC 114097 (Sub-No. 9), filed May 27, 1977. Applicant: NIEDFELDT TRUCKING SERVICE, INC., 821 So. Front Street, LaCrosse, Wisconsin 54601. Applicant's representative: Edward H. Instenes, P.O. Box 676, Winona, Minnesota 55987. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal cans and can ends*, from St. Paul, Minnesota and points in the commercial zone thereof to LaCrosse, Wisconsin, restricted to Hi-Cube and Roller bed trailers, under a continuing contract or contracts with National Can Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Madison, Wis., or Chicago, Ill.

No. MC 114123 (Sub-No. 46), filed June 22, 1977. Applicant: HERMAN R. EWELL, INC., East Earl, Pennsylvania 17519. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pennsylvania 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and invert sugar, corn syrup and mixtures of liquid and invert sugar and corn syrup, and molasses*, in bulk, in tank vehicles, from Philadelphia, Pa., to points in Delaware, Maryland, New Jersey, New York, Virginia, and the District of Columbia.

NOTE.—Applicant holds motor contract carrier authority in No. MC 118661 Subs 4 and 5; therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 114416 (Sub-No. 8), filed June 24, 1977. Applicant: WESTERN TRANSPORT CRANE AND RIGGING, INC., Route 9, Grant Creek Road, Missoula, Montana 59801. Applicant's representative: Henry C. Winters, 235 Evergreen Bldg., 15 South Grady Way, Renton, Washington 98055. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Contractors' Sawmill and Mining Machinery, Equipment and Supplies, and U.S. Forest Service Equipment and Supplies*, between points in Idaho, Montana, Oregon, and Washington.

NOTE.—Applicant states that applicant in No. MC-114416 and applicant's affiliate, Douglas N. Miller, doing business as Western Transport, in No. MC-125907, hold operating authority which duplicates in part that sought herein, and that upon a grant herein any duplicating operating authority held by applicant and by Douglas N. Miller, doing business as Western Transport, will be surrendered for cancellation. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Missoula, Montana, or Spokane, Washington.

No. MC 114457 (Sub-No. 314), filed July 1, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minnesota 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers*, from Milwaukee, Wisconsin, to Perry, Georgia.

NOTE.—If hearing is deemed necessary, the applicant requests that it be held at either Milwaukee, Wisconsin or Chicago, Illinois.

No. MC 114569 (Sub-No. 181), filed June 23, 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: *Hydraulic cylinders, parts, accessories, materials and supplies used in the manufacture and distribution thereof*, between the plantsite and storage facilities of United Hydraulics Corporation, located at or near Hampton, Iowa, on one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Des Moines, Iowa or Washington, D.C.

No. MC-115311 (Sub-No. 226), filed June 20, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular* routes transporting: *Composition board, plywood, and accessories and materials* (except commodities in bulk), used in the sale and installation thereof, from the facilities of Abitibi Corp., located in Lucas County, Ohio to points in New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Illinois, Missouri, Arkansas, Louisiana, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at: Columbus, Ohio, or Detroit, Mich.

No. MC-115841 (Sub-No. 542), filed June 23, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, Tennessee 37922. Applicant's representative: Harry C. Ames, Jr., Suite 805, 666 Eleventh Street, NW., Washington, D.C. 22201. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Frozen foods* from the plantsites and storage facilities of RJR Foods, Inc., at or near Jackson, Ohio, to points in Texas and California.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Charlotte, N.C., or Washington, D.C. Common control may be involved.

No. MC-115841 (Sub-No. 543), filed June 21, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, Tenn. 37922. Applicant's representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Smoked and cured meats*, from the plantsite and storage facilities of Hygrade Food Products, located at or near near Philadelphia, Pa., to points in West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC-116073 (Sub-No. 357), filed June 13, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, MN 56560. Applicant's representative: Donald E. Cross, 918 16th Street NW., Suite 700, Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting trailers designed to be drawn by passenger automobiles (travel trailers, Fifth wheel travel trailers) from the plantsites of Fleetwood Enterprises, Inc., at or near Yakima, Wash.; Omaha, Nebr.; Frankfort, Ind.; and Crawfordsville, Ind., to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Los Angeles, Calif. Common control may be involved.

No. MC-116133 (Sub-No. 14), filed June 17, 1977. Applicant: POLLARD DELIVERY SERVICE, INC., Washington National Airport, Washington, D.C. 20001. Applicant's representative: Peter A. Greene, 900 17th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, household goods as defined by the Commission, and commodities which because of their size and weight require special equipment), between Harve de Grace, Md., on the one hand, and, on the other, Philadelphia International Airport, Philadelphia, Pa., Newark International Airport, Newark, N.J., LaGuardia Airport, Flushing, N.Y., and John F. Kennedy International Airport, Jamaica, N.Y., restricted to traffic having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Baltimore, Md.

No. MC-116273 (Sub-No. 211), filed June 29, 1977. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, from Crystal Lake, Ill., to points in the United States (except Alaska and Hawaii), and (2) *materials*, and *supplies* used in the manufacture of chemicals, in bulk, in tank vehicles, from points in the United States (except Alaska and Hawaii), to Crystal Lake, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 116459 (Sub-No. 65), filed June 21, 1977. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, Tenn. 37405. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fertilizer and fertilizer materials*, in bulk, in tank or hopper type vehicles, from Tyner, Tenn., to points in Alabama, Georgia and Kentucky.

NOTE.—If a hearing is deemed necessary the applicant requests it to be held at Washington, D.C. or Chattanooga, Tenn.

No. MC 116763 (Sub-No. 371), (Correction), filed March 4, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, republished as corrected this issue. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: R. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the facilities of Kraft, Inc., located at Champaign, Ill., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia, and the District of Columbia, and points in Pennsylvania, Maryland and New York east of Interstate Highway 81, restricted to the transportation of traffic originating at the named origin and destined to points in the named destinations States.

NOTE.—The purpose of this republication is to correct the territorial description. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 117068 (Sub-No. 82), filed June 23, 1977. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *hydraulic cylinders, parts and accessories*, and *materials and supplies* used in the manufacture of such cylinders, except commodities in bulk in tank vehicles, between the plant site and storage facilities of United Hydraulics Corp., at or near Hampton, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 117119 (Sub-No. 639), filed June 20, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: M. M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Chemicals*, in containers, (except in bulk), from Easton, Pa., to Arizona, California, Colorado, Kansas, Missouri, New Mexico, Oregon, Texas, and Washington.

NOTE.—If a hearing is deemed necessary applicant requests it be held at either Columbus, Ohio, Philadelphia, Pa., or Washington, D.C. Common control may be involved.

No. MC 117119 (Sub-No. 640), filed June 20, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: M. M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Photographic materials, supplies, and equipment*, (except in bulk), in vehicles equipped with mechanical refrigeration, from Teterboro, New Jersey to Salt Lake City, Utah.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Newark, N.J.; New York, N.Y. or Washington, D.C. Common control may be involved.

No. MC 117119 (Sub-No. 641), filed June 23, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: M. M. Geffon, P.O. Box 338, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Chemicals, Drugs, Medicines, and Toilet Preparations* (except in bulk), in vehicles equipped with mechanical refrigeration from points in New Jersey, Connecticut, New York, and Massachusetts to points in Oregon, Washington, and Nevada.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 117940 (Sub-No. 224), filed June 24, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple

Plain, Minn. 55359. Applicant's representative: Alan L. Timmerman, P.O. Box 104, Maple Plain, Minn. 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *such commodities as are dealt in by farm supply cooperatives* (except foodstuffs, commodities in bulk and household goods as defined by the Commission), from points in Iowa, Kansas, Louisiana, Missouri, Nebraska and Oklahoma to points in Minnesota, Montana, North Dakota, South Dakota and Wisconsin. Restricted to traffic originating at named origins and destined to the facilities of Farmers Union Central Exchange, Inc. (Cenex) and its members in the named destination States.

NOTE.—Applicant holds motor contract carrier authority in No. MC 114789, Sub 16, and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Minneapolis or St. Paul, Minn.

No. MC 118959 (Sub-No. 150), filed June 27, 1977. Applicant: JERRY LIPPS, INC., 130 South Fredrick St., Cape Girardeau, Mo. 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay, clay products, paper trays, and corrugated post* (except commodities in bulk), from the plant site of Absorbent Clay Products, Inc. at or near Mounds, IL to points in the United States, except Alaska and Hawaii; (2) Materials, equipment and supplies (except commodities in bulk) used in connection with the commodities described in (1) above from points in the United States, except Alaska and Hawaii, to the plant site of Absorbent Clay Products, Inc., at or near Mounds, Ill.

NOTE.—Applicant holds contract carrier authority in No. MC 125664, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Nashville, Tenn.

No. MC 119089 (Sub-No. 5), filed June 20, 1977. Applicant: WISCONSIN REFRIGERATED SERVICES INC., 11400 West Burleigh Street, Wauwatosa, Wis. 53222. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought: To operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles), and (2) *frozen meats* and *meat by-products*, unfit for human consumption (except commodities in bulk, in tank vehicles) from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, Wisconsin to points in Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, under a continuing contract or contracts with Wiscold, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, Wis. or Chicago, Ill.

No. MC 119493 (Sub-No. 150), filed: June 23, 1977. Applicant: MONKEM COMPANY, INC., Post Office Box 1106, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 58 South Main Street, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Twine, cordage and cordage products* from Kansas City, Missouri to points in Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Arkansas, Missouri, Wisconsin and Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, Mo.

No. MC 119619 (Sub-No. 110), filed July 1, 1977. Applicant: DISTRIBUTORS SERVICE CO., a Corporation, 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pneumatic tires and tire tubes*, from the facilities of Seiberling Tire & Rubber Co., located in Akron and/or Barberton, Ohio, to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut); (2) *anti-freeze* (except in bulk), in tank vehicles, from Pittsburgh, Pa., Wyandotte, Mich., Omaha, Nebr., Kansas City, Mo., Bayonne, N.J., Atlanta, Ga., St. Louis, Mo., Ludlow, Ky., West Memphis, Ark., Houston, Tex., Geismar, La., McKees Rocks, Pa., Minneapolis, Minn., Chicago, Ill., Los Angeles, Calif., San Francisco, Calif., and Vancouver Wash., to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut); and (3) *batteries*, from Fairfield, Conn., Atlanta, Ga., Memphis, Tenn., Minneapolis, Minn., Omaha, Nebr., Dallas, Tex., Denver, Colo., Logansport, Ind., and Richmond, Calif., to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 119726 (Sub-No. 97), filed June 24, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, Indiana 46217. Applicant's representative: James L. Beattey, 130 E. Washington Street, Suite One Thousand, Indianapolis, Indiana 46204. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *paper bags*, from Des Moines, Iowa to Tipton, Rushville, Mt. Vernon, Flora, and Worthington, Indiana, and Laurinberg, North Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Indiana, or Des Moines, Iowa.

No. MC 119726 (Sub-No. 98), filed June 27, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical care products and materials, equipment and supplies*, from the plantsite of Baxter/Travenol Laboratories, Inc., located at or near Cleveland, Mississippi, to the warehouse facilities of Baxter/Travenol Laboratories, Inc., located at or near Memphis, Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Indiana, or Chicago, Illinois.

No. MC 119741 (Sub.-No. 77), filed June 20, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Foodstuffs, from the plant site and storage facilities utilized by Presto Food Products, Inc., at or near Kansas City, Missouri, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, and Wisconsin. Restriction: Restricted to the transportation of traffic originating at the named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119741 (Sub-No. 78, filed June 20, 1977. Applicant: GREEN FIELD TRANSPORT COMANY, INC., 3225 fifth Avenue South, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Commercial Distribution Center, Inc., at or near Independence, Missouri, to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. Restriction: Restricted to the transportation of shipments originating at the named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119741 (Sub-No. 79), filed June 27, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, From the storage facilities of Continental Processors, Inc. and Ventura Coastal Corp., at or near Bonner Springs, Kansas, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, North Dakota, Ohio, and Wisconsin. Restriction: Restricted to the transportation of traffic originating at the named origins and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Missouri.

No. MC 119765 (Sub-No. 44), filed June 27, 1977. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, Nebraska 68107. Appliant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebraska 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, (except hides and commodities in bulk), from the plantsites and facilities utilized by Meilman Food Industries at or near Sioux Falls, South Dakota, to points in Connecticut, Delaware, District of Columbia, Florida, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont and Virginia, restricted to traffic originating at the named origin and destined to the named states.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, Nebraska.

No. MC 119777 (Sub No. 337), filed June 20, 1977. Applicant. LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, Kentucky 42431. Applicant's representative: Carl U. Hurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plywood* and *composition board*, from points in Randolph County, Georgia, to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico.

NOTE.—Applicant holds contract carrier authority in MC 126970 (Sub-No. 1) and other subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC 119789 (Sub No. 358), filed June 16, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Insulators and Parts, from Sandersville, Georgia to points in Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin.

NOTE.—If an oral hearing is deemed necessary, the applicant requests that it be held at Macon or Atlanta, Georgia.

No. MC 119789 (Sub-No. 359), filed June 22, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Canned and bottled foodstuffs, from St. Martinsville, Louisiana, to Alabama, Arkansas, Florida, Georgia, Illinois, Michigan, Mississippi, Missouri, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Lafayette or New Orleans, Louisiana.

No. MC 119789 (Sub-No. 360), filed June 22, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Cheese, from Plymouth, Wis. to points in Arizona, California, Louisiana, Oregon, Texas, and Washington.

NOTE.—If an oral hearing is deemed necessary, the applicant requests that it be held at Columbus or Cincinnati, Ohio.

No. MC 120279 (Sub-No. 7), filed June 27, 1977. Applicant: F. G. McFARLAND AND S. R. HULLINGER, doing business as McFarland and Hullinger, a limited partnership, 915 North Main Street, Tooele, Utah 84074. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: uranium and vanadium ores and concentrates, from the Waltman Mine located 1½ miles East of U.S. Highway 395 at a point 35 miles north of Reno, Nevada in Lassen County, California to the Cotter Corporation Mill located approximately 4 miles south of Canon City, Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah.

No. MC 120761 (Sub-No. 22), filed June 24, 1977. Applicant: NEWMAN BROS. TRUCKING COMPANY, a Corporation, 6559 Midway Road, P.O. Box 13302, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trusses, bar joists and accessories* from Hope, Ark., to points in Alabama, Arizona, Colorado, Florida, Georgia, Kansas, Louisiana, Mississippi Missouri, New Mexico, Oklahoma, Tennessee and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex. Common control may be involved.

No. MC 121060 (Sub-No. 43), filed June 16, 1977. Arrow Truck Lines, Inc., P.O. Box 1416, Birmingham, Ala. 35201. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Plywood and composition board*, from the facilities of Champion International Corporation at Orangeburg, S.C., to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123405 (Sub-No. 52), filed June 27, 1977. Applicant: Food Transport, Inc., R.D. No. 1, Thomasville, Pennsylvania 17364. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pennsylvania 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and woodpulp*, from the plantsite and shipping facilities of Bowater Southern Paper Corporation, at Calhoun, Tenn., to points in Delaware, New Jersey, New York, Maryland, Pennsylvania, Ohio, Virginia and the District of Columbia. Restricted to traffic originating at and destined to the above-named origins and destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa., or Washington, D.C. Common control may be involved.

No. MC 123407 (Sub-No. 387), filed June 22, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Indiana 46383. Applicant's representative: H. E. Miller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of Boise Cascade Corporation located at or near International Falls, Minn., to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; (2) *paper and paper products*, from the ports of entry on the International Boundary line between the United States and Canada at or near Noyes, Minn., and Pembina, N.D., to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (3) *Return and refused shipments* from the destination points in (1) above, to the facilities of Boise Cascade Corporation at or near International Falls, Minn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Portland, Ore.

No. MC 123407 (Sub-No. 338), filed June 21, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing presses* between points in the United States (except Alaska and Hawaii).

NOTE.—Common Control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 124211 (Sub-No. 294), filed June 21, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha,

NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *junk and scrap, rubber, plastic, and rubber or plastic materials and products*, Between points in the United States, including Alaska, but excluding Hawaii, restricted to traffic originating and destined between the named points.

NOTE.—Common control may be involved. Applicant states that it may currently provide a substantial portion of the proposed operations in single and joint line service pursuant to authority held in MC 124211 Sub-Nos. 112, 119, 223, 228, 238, 260, E-39, and E-86, and that the primary purpose of this application is to enable applicant to provide a complete service for the above named shipper. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 124211 (Sub-No. 296), filed June 27, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *carpets, rugs, mats, matting, plastic articles, rubber articles, parts and accessories;* and, (2) *materials, equipment, supplies and accessories* used in the manufacture, distribution, sale, and installation of commodities described in (1) above (except commodities in bulk), between points in the United States, except Alaska and Hawaii, restricted to the transportation of shipments originating at or destined to the facilities utilized by General Felt Industries, Inc., its subsidiaries and contractors.

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at Washington, D.C., on a consolidated record with similar applications.

No. MC 124211 (Sub-No. 297), June 27, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, .T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Replacement automotive parts, and such commodities as are dealt in and used by manufacturers and distributors of replacement automotive parts, motor vehicle accessories, supplies and equipment* (except such commodities in bulk), between points in Los Angeles and Orange Counties, Calif., on the one hand, and, on the other, points in the United States, except Alaska and Hawaii.

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at Los Angeles, California.

No. MC 124328 (Sub-No. 113), filed June 24, 1977. Applicant: BRINK'S INCORPORATED, Suite 710, One Crossroads of Commerce, Alongquin Road and Rte. 53, Rolling Meadows, Ill. 60008. Applicant's representative: Chandler L. van Orman, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, securities, negotiable and nonnegotiable instruments, commercial papers and business records*, between Toledo, Ohio, on the one hand, and, on the other, points in Michigan. Restricted to operations conducted under a continuing contract or contracts with banks, banking and other financial institutions.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Toledo, Ohio, or Detroit, Mich. Common control may be involved.

No. MC 124887 (Sub-No. 35), filed June 21, 1977. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, Fla. 32421. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products*, from the facilities of The Flintkote Company, at Savannah, Ga., to points in Alabama, Temessee, North Carolina, South Carolina, Florida, Virginia, and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Savannah, Ga., or Washington, D.C.

No. MC 124947 (Sub-No. 61), filed June 27, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Oklahoma 74979. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, irregular routes, transporting (1) *light construction equipment*, including, but not limited to mortar and concrete mixers, soil compactors, portable conveyors, heaters, screens and power trowels, from Honeoye, New York and Brunswick, Georgia to points in the United States (except Alaska and Hawaii), and (2) *Equipment, material and supplies* used or useful in the manufacture of commodities in (1) above from points in the United States (except Alaska and Hawaii) to Honeoye, New York and Brunswick, Georgia. Restricted to traffic originating at or destined to the plantsites or warehquse facilities of Stone Construction Equipment, Inc., located at or near Honeoye, New York and Brunswick, Georgia and further restricted against shipments which because of size or weight require special handling or special equipment.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Buffalo, N.Y.

No. MC 125103 (Sub-No. 4), filed June 20, 1977. Applicant: SUNDERMAN TRANSFER, INC., Box 63, Windom, Minnesota 56101. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, North Dakota 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Landy of Wisconsin, Inc., located at or near Eau Claire, Wisconsin, to points in Iowa, Illinois, Indiana, Michigan, and Ohio, under a continuing contract with Landy of Wisconsin, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Minneapolis or St. Paul, Minnesota.

No. MC 125433 (Sub-No. 106), filed June 27, 1977. Applicant: F-B TRUCK LINE COMPANY—A Corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister (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, or used by, *agricultural equipment, industrial equipment, and lawn and leisure product dealers* (except commodities in bulk), from Multnomah County, Oregon and Longview, Washington and Salt Lake City, Utah to points in Washington, Oregon, California, Nevada, Idaho, Montana, Utah, Wyoming, and Arizona, restricted to shipments having an immediately prior or subsequent movement by rail or water.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Portland, Oreg.

No. MC 125433 (Sub-No. 107), filed June 27, 1977. Applicant: F-B TRUCK LINE COMPANY (A Corporation), 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bar joists; trusses; painted, galvanized, or uncoated decking and siding; and accessories; and iron and steel articles* as described in Appendix V to the Descriptions in Motor Carrier Certificates case, 61 M.C.C. 209, from Norfolk, Nebraska, and its commercial zone to points in Colorado, Wyoming, Montana, Washington, Utah, Idaho, California, Oregon, Arizona, and Nevada, restricted to movements originating at the plantsite of Vulcraft, a Division of Nucor Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah, or Denver, Colorado.

No. MC 125777 (Sub-No. 193), filed June 27, 1977. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Indiana 46403. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, (1) From Erie, Pennsylvania to points in New

York; and (2) From Toledo, Ohio to points in Indiana, Illinois, and Michigan. Restricted to traffic originating at the plant sites of Domtar, Inc. at Erie, Pennsylvania and Toledo, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois.

No. MC 126118 (Sub-No. 46), filed June 17, 1977. Applicant: CRETE CARRIER CORP., 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 Ft. Worth, Tex., and Milwaukee, Wisc., to points in South Carolina.

NOTE.—Applicant holds contract carrier authority in No. MC 128375 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at Greenville, S.C. or Lincoln, Nebr.

No. MC 126458 (Sub-No. 9), filed June 20, 1977. Applicant: NICHOLAS J. ASCENZO, INC., P.O. Box 62, Bronx, N.Y. 10465. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209, and 276, between Wallingford, Conn.; Claymont, Del.; Sayreville, N.J.; Phoenixville, Pa., and Chesapeake, Va., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia under a continuing contract or contracts with Yale Steel Corp. at New York, N.Y.

NOTE.—Applicant holds common carrier authority in No. MC 95965, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 126458 (Sub-No. 10), filed June 20, 1977. Application: NICHOLAS J. ASCENZO, INC., P.O. Box 62, Bronx, N.Y. 10465. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment, materials and supplies* (except commodities in bulk) between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia under a continuing contract or contracts with Slattery Associates, Inc., located at Maspeth, N.Y.

NOTE.—Applicant holds common carrier authority in No. MC-95965, therefore dual operations may be involved. If hearing is deemed necessary, applicant requests it to be held at New York, N.Y.

No. MC 126473 (Sub-No. 30), filed June 27, 1977. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, Iowa 52580. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, articles, distributed by meat packing houses, and foodstuffs*, between the plant site and/or facilities utilized by Geo. A. Hormel & Co., located at or near Ottumwa, Iowa, on the one hand, on the other, points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minnesota or Chicago, Illinois.

No. MC 126899 (Sub-No. 113), filed June 23, 1977. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Post Office Box 3156, Paducah, Kentucky 42001. Applicant's representative: George M. Catlett, Suite 708 McClure Building, Frankfort, Kentucky 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged coal*, from points in Hancock and Daviess Counties, Kentucky, to points in Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and Wisconsin, restricted against the transportation of commodities in bulk.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Louisville or Lexington, Kentucky.

No. MC 128087 (Sub-No. 5), filed June 20, 1977. Applicant: JOHN N. JOHN III, doing business as JOHN N. JOHN TRUCK LINE, Box 291, Crowley, La. 70526. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid Amorphous Polypropylene*, in bulk, in tank trucks, from Bayport, Texas, to Crowley, Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Houston, Texas.

No. MC 128205 (Sub-No. 29), filed June 20, 1977. Applicant: BULKMATIC TRANSPORT COMPANY, a Corporation, 12000 S. Doty Avenue, Chicago, Ill. 60628. Applicant's representative: ARNOLD L. BURKE, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Indianapolis, Indiana to Chicago, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 129410 (Sub-No. 7), filed June 21, 1977. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, Ill. 60014. Applicant's representative: Eric S. Sparks, Suite 1007, 221 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *prefabricated grain bins* and *tanks, fans, heaters, and accessories* thereof, and *grain dryers and parts* thereof, from the plantsites of Chicago Eastern Corporation at Marengo, Ill., to points in the United States (except Alaska and Hawaii), with return of (2) (a) *steel* from the plantsites of Armco Steel at Ashland, Ky., the plantsite of Wheeling-Pittsburg Steel at Martins Ferry, Ohio, and the plantsite of Bethlehem Steel at Lackawanna, N.Y. to the plantsites of Chicago Eastern Corporation at Marengo, Ill. and (2) (b) *nuts and bolts* from the plantsite of Armco Steel at Kansas City, Mo., to the plantsites of Chicago Eastern Corporation at Marengo, Ill., under a continuing contract or contracts with Chicago Eastern Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Milwaukee, Wis.

No. MC 129455 (Sub-No. 20), filed May 31, 1977. Applicant: CARRETTA TRUCKING, INC., 301 Mayhill St., Saddle Brook, N.J. 07662. Applicant's representative: Joseph Carretta (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Redwood products* from the ports of entry on the International Boundary Line between the United States and the Republic of Mexico located at Calexico, Calif., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and equipment* used in the manufacture of redwood products, from points in California to the ports of entry on the International Boundary Line between the United States and the Republic of Mexico located at Calexico, Calif., under a continuing contract or contracts with Quaker City Industries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 129615 (Sub-No. 26), filed February 4, 1977. Applicant: AMERICAN INTERNATIONAL DRIVEAWAY, a Corporation, P.O. Box 545, 123 N. First Street, Decatur, Ind. 46733. Applicant's representative: E. Drayson Helmer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in driveaway service, between the plantsite and the manufacturing facilities of Travco Corporation, located at or near Mt. Clemens, Mich., on

the one hand, and, on the other, points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Mt. Clemens or Detroit, Mich.

No. MC 129862 (Sub-No. 15), filed June 24, 1977. Applicant: RAJOR, INC., 100 Beta Drive, P.O. Box 756, Franklin, Tenn. 37064. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electronic instruments and components, tables and stands for electronic instruments and components, and toys and games* (except coin operated), from Greeneville and Jefferson City, Tenn., to points in Florida, under a continuing contract or contracts with The Magnavox Company, located at Greeneville, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn.

No. MC 133095 (Sub-No. 162), filed June 27, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 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: *Electrical* and *Gas Appliances* and *Range Hoods* and *parts and accessories* therefor and *material, equipment* and *supplies* used in the manufacture and distribution thereof between Oxford, Mississippi, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii)

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved.

No. MC 133494 (Sub-No. 14), filed: June 22, 1977. Applicant: E. W. BELCHER TRUCKING, INC., 201 Dallas Drive, Denton, Tex. 76201. Applicant's representative: William D. Lynch, P.O. Box 912, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (I.) *Fish oil residuum* (Fish Solubles), in tank vehicles, from Cameron, Jefferson Davis, Calcasieu and Plaquemines Parishes, La.; Harrison, Jackson and Hancock Counties, Miss., to the facilities of the H. J. Baker & Bro., Inc. in Sebastian and Crawford Counties, Ark. (II.) *Meat and bone meal*, in bulk from Livingston Parrish, Louisiana, to points in Mississippi, Arkansas and Texas. (III.) *Blood meal*, in bulk from points in Iowa, Nebraska and Illinois to the facilities of the H. J. Baker & Bro., Inc. in Sebastian and Crawford Counties, Ark.

NOTE.—If a hearing is deemed necessary, the Applicant requests it be held at Dallas, Tex., or Little Rock, Ark.

MC 133689 (Sub-No. 133), filed June 16, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St., SW., New Brighton, Minn. 55112. 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: *Such merchandise as is dealt in by wholesale and retail department stores* (except commodities in bulk) from New York, New York and North Bergen, New Jersey, to points in Tennessee, Kentucky, Ohio and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 133689 Sub-No. 135, filed June 24, 1977. Applicant: Overland Express, Inc., 719 First St., SW., New Brighton, Minn. 55112. 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: Canned goods (except commodities in bulk) from Kokomo, Ind.; Leipsic, Ohio; and Morton, Ill. to points in Minnesota, South Dakota, North Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

MC 133689 Sub-No. 136, filed June 27, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St., SW., New Brighton, Minn. 55112. 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: Sugar (except in bulk) from Renville, Moorhead, East Grand Forks, Chaska, Crookston, Minneapolis-St. Paul, Minn. to points in Illinois, Indiana, Ohio and Michigan (except from Minneapolis-St. Paul, Minn. to points in Ohio).

NOTE.—If a hearing is deemed necessary applicant request it be held at Minneapolis, Minn.

No. MC 134022 (Sub-No. 25), filed June 20, 1977. Applicant: RICHARD A. ZIMA d.b.a. ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Nancy J. Johnson, 4506 Regent Street; Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Butter and butter oils*, (except in bulk) and *commodities* exempt from economic regulation under Section 203(b)(6) of the Act when moving in mixed loads with butter and butter oils (except in bulk), from West Bend, Wis., to points in Alabama, Arizona, California, Connecticut, Delaware, Florida, Georgia, Illinois (except the Chicago Commercial Zone), Indiana (except the Chicago Commercial Zone), Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nevada, New Mexico, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison, or Milwaukee, Wis.; or Chicago, Ill.

No. MC 134022 (Sub-No. 26), filed June 24, 1977. Applicant: RICHARD A. ZIMA, d.b.a. ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Nancy J. Johnson, 4506 Regent Street; Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Cheese, cheese foods and cheese by-products* (except in bulk) from Merrill, Wis., to points in the United States (except Alaska, Hawaii and points in the Chicago, Ill. Commercial Zone as defined by the Commission); and (2) *imported cheese and cheese foods; returned and rejected shipments; and materials and supplies* used in the manufacture of cheese and cheese foods (except in bulk) from points in the territory described in Part (1) above to Merrill, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis., or Chicago, Ill.

No. MC 134035 (Sub-No. 19), filed June 27, 1977. Applicant: DOUGLAS TRUCKING COMPANY, a Corporation, P.O. Box 698, Highway 75 South, Corsicana, Tex. 75110. Applicant's representative: Clint Oldham, 1108 Continenal Life Building, Fort Worth, Tex. 76102. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *truck beds, truck bodies, attachments for truck beds or truck bodies and winches* from the plant-sites or storage facilities of Koenig Iron Works, Inc., at or near Houston, Tex., to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Houston, Tex., or Dallas, Tex.

No. MC 134145 Sub-66, filed June 22, 1977. Applicant: NORTH STAR TRANSPORT, INC., Rt. 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 *contract carrier*, by motor vehicle, over irregular routes, transporting: Machines, computing and parts thereof (except commodities in bulk), from Campton, Ky., to Detroit Metropolitan Air Terminal located at or near Detroit, Mich., under a continuing contract or contracts with Computor Peripherals, Inc., Edina, Minn.

NOTE.—Applicant holds common carrier authority in MC 135231 (Sub-No. 5) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

MC 134387 (Sub-No. 51), filed June 20, 1977. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, Calif. 90280. Applicant's Representative: Lucy Kennard Bell, 1800 United California Bank Bldg., 707 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a

*common carrier*, by motor vehicle, over irregular routes, in the transportation of: Plastic containers, less than 5½ gallons in capacity, from points in Los Angeles County, California, to points in Maricopa County, Ariz.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif.

MC 13447 (Sub-No. 177), filed June 20, 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 *foodstuffs* (except commodities in bulk), from Duluth, Minn. and Superior, Wis., to points in Colorado. Restricted to the transportation of traffic originating at the plantsite and warehouse facilities of Jeno's, Inc. located at or near Duluth, Minn. and Superior, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134477 (Sub-No. 178), filed June 20, 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 *common carrier* by motor vehicle, over irregular routes, transporting *such merchandise as dealt in by retail and wholesale footwear stores*, from the plantsite and warehouse facilities of Kinney Shoe Corporation located at or near Camp Hill and Mechanicsburg (Cumberland County), Pa., to Dallas, Tex.; Denver, Colo.; Des Moines, Iowa; Kansas City, Mo.; Minneapolis, Minn.; and Omaha, Nebr. Restricted to the transportation of traffic originating at the above named origins and destined to the above named destination points.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Minneapolis, Minn.

No. MC 134592 (Sub-No. 12), filed June 20, 1977. Applicant: HERB MOORE, HAZEL MOORE, a Partnership, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, Oreg. 97217. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Used malt beverage containers*, from points in Oregon and Washington to Winters, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

No. MC 134755 (Sub-No. 107), filed June 22, 1977. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Missouri 65804. 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: Packaged meats and meat products in packages, from Searcy, Ark. to points in Ohio, Pa., Mich., Ill, W. Va., Va. Md., Del., D.C., N.Y., N.J., Conn., R.I., Mass., Vt., N.H., Maine, Mo., Okla., Tex., Wisc., Minn., Nebr., Kan., N. Mex., Ia., Ariz., Calif., Colo., Utah, Idaho, Wyo., Mont., Wash., Ore., and Nevada.

NOTE.—Applicant holds motor contract carrier authority in MC-138398 and sub numbers thereunder, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicants requests it be held at either Kansas City, Missouri or St. Louis, Missouri.

No. MC 134755 (Sub-No. 108), filed June 20, 1977. CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Missouri 65804. 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: Ceramic tile and tile,

(1) From the plantsite and storage facilities utilized by Monarch Tile Manufacturing Company at or near Florence, Alabama, to points in Wisconsin, Michigan, Ohio, Illinois, Indiana, Colorado, Texas, Oklahoma, Kansas, California, Wyoming, South Dakota, Arizona, Missouri, Minnesota, Nebraska, and Iowa;

(2) From the plantsite and storage facilities utilized by Monarch Tile Manufacturing Company at or near Marshall and San Angelo, Texas, to points in California and Arizona;

(3) From the facilities of Structural Stoneware, Inc. at Ironton, Ohio, to points in Wisconsin, Michigan, Ohio, Illinois, Indiana, Colorado, Texas, Oklahoma, Kansas, South Dakota, Wyoming, Missouri, Minnesota, Nebraska, and Iowa.

(4) From the facilities of Mid-State Tile Company at or near Lexington, North Carolina, to points in Alabama, Connecticut, Florida, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, New York, Ohio, Tennessee, and Wisconsin.

(5) From the facilities of Mid-State Tile Company at or near Lexington and Mt. Gilead, North Carolina, to points in Oklahoma, Nebraska, Missouri, Kansas, Utah, Idaho, Colorado, New Mexico, Nevada, Oregon, Texas, Arizona, California, and Washington.

(6) From Cleveland, Mississippi, to points in California, Utah, New Mexico, and Oregon. Restriction: (1) through (6) restricted to traffic originating at the named origins and destined to points in the named destination states.

NOTE.—The purpose of this application is to convert permits MC-138398 (Sub-Nos. 12, 15 and 17) and permits applicant is authorized to acquire in MC-F-12570 to certificates of convenience and necessity.

NOTE.—Applicant holds motor contract carrier authority in MC-138398 and sub numbers thereunder, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at either Kansas City, Missouri or St. Louis, Missouri.

No. MC 134890 (Sub-No. 8), filed June 22, 1977. Applicant: MARION TRANSFER, INC., 4524 South 13th Street, Milwaukee, WI 53221. Applicant's representative: Richard C. Alexander, Suite 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, transporting: *Spices, and materials and supplies* used in the manufacture thereof (except in bulk), between the facility of Foran Spice Company, Oak Creek, Wis., on the one hand, and, on the other, points in Delaware, Illinois, Iowa, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio and Pennsylvania, under a continuing contract, or contracts with Forán Spice Company.

NOTE.—If a Hearing is deemed necessary, applicant requests it b held at Milwaukee, Wis.

No. MC 135052 (Sub-No. 12), filed June 20, 1977. Applicant: ASHCRAFT TRUCKING, INC., 875 Weber Street, Shelbyville, IN 46176. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous Glass Products and Materials, Mineral Wool, Mineral Wool Products and Materials, Insulated Air Ducts, Insulating Products and Materials; Glass Fibre Rovings, Yarn and Strand and Glass Fibre Mats and Matting*, between the warehouses and storage facilities of CertainTeed Corporation at or near New Haven, Indiana, on the one hand, and, on the other points in Illinois, Ohio, Michigan and Wisconsin.

NOTE.—If a Hearing is deemed necessary, the applicant requests it be held at Indianapolis, Indiana, or Washington, D.C.

No. MC 135236 Sub-No. 19 filed June 24, 1977. Applicant: LOGAN TRUCKING, INC., 801 Erie Avenue, Logansport, In. 46947. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, In. 46204. Authority sought as a *common carrier*, by motor vehicle, over irregular routes transporting malt beverages from Norfolk, Virginia to points in Illinois, Indiana, Michigan, Wisconsin, Ohio and Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 135283 (Sub-No. 24), filed June 22, 1977. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122. Grand Island, Nebraska 68801. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank

vehicles), from the plantside and storage facilities of Dugdale Packing, Inc., at or near Darr, Nebraska, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, and West Virginia.

No. MC 135797 (Sub-No. 78), filed June 22, 1977. Applicnt: J. B. HUNT TRANSPORT, INC., Post Office Box 200, Lowell, Arkansas 72745. Applicant's representative: Paul A. Maestri (Same addess as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) Non-Alcoholic Beverages (Except in bulk), (a) From Auburndale, Florida to Plymouth and Trafalgar, Indiana, and points in Texas.

(b) From Plymouth, Indiana, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

(c) From Trafalgar, Indiana to points in Missouri.

(d) From Dallas, Texas to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas.

(e) From Weslaco, Texas to points in Alabama, Arizona, Arkansas, California, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Washington and Wisconsin.

(2) Machinery, materials (except in bulk), equipment and supplies (except in bulk), used in or in connection with the manufacture, distribution or use of the commodities named in (1) above, From points in the United States (except Alaska and Hawaii)

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Washington, D.C.

No. MC 136086 (Sub No. 10), filed filed June 21, 1977. Applicant: Bacil Guiley, d.b.a. GUILEY TRUCKING, 8615 Pecan Avenue, Fontana, California 92335. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal alloys, scrap automobile bodies, scrap batteries, scrap metal and cullet*, from points in Colorado, New Mexico and Wyoming, to Etiwanda, California and Midlothian, Texas, under a continuing contract or contracts with Century Entreprises.

NOTE.—If ahearing is deemed necessary, applicant requests that it be held at Denver, Colo. or Los Angeles, Calif.

No. MC 136315 (Sub No. 18), filed June 27, 1977. Applicant: Olen Burrage Trucking, Inc., Route 9, Box 22–A, Philadelphia, Mississippi 39350. Applicant's representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, Mississippi 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *roofing materials, composition shingles, rolled roofing, roofing compounds and accessories thereto*, from the plant site and storage facilities of Elk Corporation at or near Stephens and Camden, Arkansas to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee and Texas.

NOTE.—Applicant holds motor contract authority in No. MC 123905 Sub-No. 1, and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Jackson, Mississippi or Memphis, Tennessee.

No. MC 136315 (Sub No. 19), filed June 27, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, Mississippi 39350. Applicant's representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, Mississippi 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *particleboard*, from the facilities of Weyerhaeuser Company at Adel, Georgia to points in Alabama, Arkansas, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia.

NOTE.—Applicant holds motor contract authority in No. MC 123905 Sub. 1, and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Jackson, Mississippi or Memphis, Tennessee.

No. MC 136343 (Sub No. 111), filed June 23, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Highway marking strip glass, ballotini, materials, equipment and supplies, used in the manufacture and sale of the foregoing commodities (except liquid commodities in tank vehicles) (1) Between the facilities of Potters Industries, Inc., Cleveland, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Texas, Virginia, West Virginia and Wisconsin, (2) Between the facilities of Potters Industries, Inc., Carlstadt, N.J., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 136545 (Sub-No. 11), filing date June 27, 1977. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad Street, Prentice, Wisconsin 54556. Applicant's representative: Richard A. Wesley, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *In-plant handling and processing equipment*, from the plantsite of Marquip, Inc., located at or near Phillips, Wisconsin, to points in the United States (except Alaska, Hawaii, and Wisconsin).

NOTE.—Applicant holds contract carrier authority in No. MC 124121 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn. or Madison, Wis., or Chicago, Ill.

No. MC 138104 (Sub-No. 42), filed June 27, 1977. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, Texas, 76106. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Texas 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *ferro alloys, pig iron and nonferrous metals*, from Houston, Texas, to points in Colorado, Louisiana, Arkansas, Texas, Oklahoma, New Mexico and Kansas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Houston, Texas, or Dallas, Texas.

No. MC 138225 (Sub No. 5), filed June 20, 1977. Applicant: HEDRICK ASSOCIATES, INC., RR No. 2, Box 10A2, Douglas Road, Far Hills, N.J. 07931. Applicants representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial and marine engines*, from the facilities of Chrysler Corp. Marine Division, at or near Marysville, Mich., and the facilities of Perkins Engines, Inc., at or near Farmington, Mich., to the facilities of Mack Boring & Parts Company at or near Union, N.J., under a continuing contract, or contracts, with Mack Boring & Parts Company.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Washington, D.C.

No. MC 138627 (Sub No. 21), filed June 28, 1977. Applicant: SMITHWAY MOTOR XPress, INC., P.O. Box 404, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebraska, 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Iron and steel articles, from the plantsites and storage facilities of L. B. Foster Co. at Bedford Park, Illinois, to points in Iowa, Missouri and Nebraska; restricted to traffic originating at the named origin and destined to points in the named destination states.

NOTE.—Applicant holds motor contract carrier authority in No. MC 66955, therefore dual operations may be involved. If a hearing is deemed necessary applicant requests that it be held at Omaha, Neb.

No. MC 138824 (Sub-No. 6), filed June 20, 1977. Applicant: REDWAY CARRIERS INC., 5910 49th Street, Kenosha, Wisconsin 53140. Applicant's representative: Paul J. Maton, 10 South La Salle

Street, Suite 1620, Chicago, Illinois 60603. Authority sought as a *contract carrier* by motor vehicle over irregular routes, transporting: Glassware, bottles, or jars, with or without caps, covers, stoppers or tops, between the plantsites and warehouses of Glass Container Corporation, located in or near Knox, (Clarion County), Pennsylvania, and the plantsites and warehouses of Ocean Spray Cranberries, Inc., located at points in Kenosha County, Wisconsin, under a continuing contract or contracts with Ocean Spray Cranberries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 139112 (Sub-No. 13), filed June 20, 1977. Applicant: CALEX EXPRESS, INC., 149 Warden Avenue, Trucksville, Pa. 18708. Applicant's representative: Joseph F. Hoary, 121 S. Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General merchandise, electronic scrap and salvage materials*, (1) from Government Depots and outlets located at or near San Diego, Los Angeles, Barstow, Tracy, Oakland, Sacramento, Fresno and San Jose, Calif., to Wilkes-Barre, Pa.; and (2) from Wilkes-Barre, Pa., to San Diego, Los Angeles, Barstow, Tracy, Oakland, Sacramento, Fresno and San Jose, Calif.

NOTE.—Applicant holds contract carrier authority in MC 140557, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 139116 (Sub-No. 4), filed June 24, 1977. Applicant: R. W. Steele dba R. W. Steele Trucking Co., 320 Heaslet St., Clovis, New Mexico 88101. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Texas 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled irrigation systems and parts for self-propelled irrigation systems* (except commodities which require the use of special equipment, plastic pipe and plastic tubing), between points in Adams County, Nebraska, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Texas.

MC 139196 (Sub-No. 16), filed June 27, 1977. Applicant: RAY WAGNER & SON TRUCKING CO., INC., Box 117, Owen, Wis. 54460. Applicant's representative: Ray Wagner, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Animal and poultry feed. From Abbotsford and New Holstein, Wis., to points in North Dakota, South Dakota, and Nebraska.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 139495 (Sub-No. 247), filed June 21, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden moldings* from Cottonwood, Calif. and Reno, Nev. to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Applicant holds contract carrier authority in MC-133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 248), filed June 23, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Such merchandise as is dealt in by gift, novelty, and pottery stores; and (2) agricultural commodities, the transportation of which is otherwise exempt from economic regulation pursuant to Section 203(b)(6) of the Interstate Commerce Act in mixed loads with (1) above, from points in California, to Marshall and Palestine, Tex.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 139564 (Sub-No. 1), filed May 31, 1977. Applicant: WEATHERS BROTHERS TRANSFER CO., INC., 921 East Forsyth Street, Jacksonville, Fla. 32202. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Florida and Georgia and Alabama on and south of U.S. Highway 80.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Jacksonville, Fla. Common control may be involved.

No. MC 139587 (Sub-No. 6), filed June 20, 1977. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, Kansas 66701. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bedsprings, bedstead rails, cots and cot frames, unupholstered day beds, bed frames, springs and spring assemblies, metal sleeper fixtures, and materials used in the manufacture thereof*, from Carthage and Springfield, Missouri and Hominy, Oklahoma, to points in Oregon, Utah and Washington.

NOTE.—Applicant holds contract carrier authority in MC 134142 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests that it be held at Kansas City, Missouri.

No. MC 140363 (Sub-No. 11), filed June 20, 1977. Applicant: CHAMP'S TRUCK SERVICE, INC., P.O. Box 1233, Meraux, La. 70075. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, La. 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, in dump trucks, from Purvis, Miss., to Alcoa, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New Orleans or Baton Rouge, La.

MC 140389 (Sub-No. 17), filed June 21, 1977. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, Alabama 35902. Applicant's representative: Larry Smith (same address as applicant). Authority sought to operate as a *common carrier* over irregular routes transporting: *Rugs, carpets, carpeting and textile products* between points in California and Nevada and from points in California and Nevada to points in Washington, Oregon, Idaho, Utah and Colorado. Tacking: The sought authority could be tacked with Osborn Lead Certificate at points in Nevada to serve points in California from points in Georgia and Knoxville, Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Las Vegas, Nevada or Los Angeles, California. Common control may be involved.

No. MC 140469 (Sub-No. 8), filed June 22, 1977. Applicant: FUNCTIONAL MARKETING SYSTEM, INC., 147-02 Liberty Avenue, Jamaica, N.Y. 11435. Applicant's attorney: Larsh B. Mewhinney, 235 Mamaroneck Avenue, White Plains, N.Y. 10605. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routs, transporting: *Books and educational materials, equipment and supplies*, between points in Hudson, Essex and Union Counties N.J., on the one hand, and, on the other, points in Putnam County, N.Y., and Fairfield County, Conn., under continuing contract with Encyclopedia Britannica, Chicago, Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y.

No. MC 140549 (Sub-No. 5), filed June 27, 1977. Applicant: FRITZ TRUCKING, INC., East Highway 7, Clara City, Minnesota 56222. Applicant's representative: Samuel Rubenstein, 301 North Fifth

Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Dry fertilizer and dry fertilizer ingredients, in bulk and in bags, and liquid fertilizer, in bulk and in tank vehicles, from Clara City and Gluek, Minnesota, to points in North Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn. Applicant holds contract carrier authority in MC 118739 (Sub-No. 2) and other subs, therefore dual operations may be involved.

No. MC 140682 (Sub-No. 2), filed June 23, 1977. Applicant: NEW (TRANS) PORT, INC., P.O. Box 188, Riceboro, Ga. 31323. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *lumber*, from Brooklet and Riceboro, Ga., to points in Florida, Alabama, North Carolina and South Carolina, under a continuing contract, or contracts, with Amax Forest Products.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla. or Atlanta, Ga. Applicant holds common carrier authority in No. MC 138982 (Sub-No. 2), therefore dual operations may be involved.

No. MC 140768 (Sub-No. 4), filed May 26, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10040. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Used, damaged, and defective automobile batters and parts thereof*, (1) From points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey and Maryland to Richmond, Va., (2) from Richmond, Va. to points in Georgia and North Carolina. Restricted against transportation to or from the premises of any person who has entered into a contract with American Trans-Freight, Inc. and/or any person who is served by it pursuant to any permit issued by this Commission.

NOTE.—Applicant holds motor contract carrier authority in MC 134404 and Subs thereunder and, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Richmond, Va., or Washington, D.C.

No. MC 140829 (Sub-No. 50), filed June 21, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, " Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Animal Feed Supplements*, from the plantsite of Dawe's Laboratories at or near Chicago Heights, Ill., to points in Arkansas, Florida, Georgia, New York, Texas, California and Arizona, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in various subs under MC-136408, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 140829 (Sub-No. 51) filed June 20, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick veneer, glazed quarry tile, grout and adhesives, concrete modular panels, fireplaces, manmade cultured marble and cabinets and vanities*, from Cleveland, Hamilton, Ironton, Minerva, and New Philadelphia, Ohio; Owensboro, Kentucky; Brazil, Indiana; Palatine, Illinois; Wisconsin Rapids, Wisconsin; Adrian, Michigan; and Stanley, Kansas to Des Moines, Iowa and Omaha, Nebraska, restricted to the transportation of traffic originating at the named origins and destined to the named destination points.

NOTE.—Applicant holds contract carrier authority in various subs under MC 136408, therefore dual operations may been involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 141046 (Sub-No. 5), filed June 27, 1977. Applicant: MASON O. MITCHELL d.b.a. M. MITCHELL TRUCKING, 1911 "I" Street, LaPorte, Indiana 46350. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Indiana 46204. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: *Starch and dextrine*, in bags, boxes and drums, from the plant site or warehouse facilities of A. E. Staley Manufacturing Co. at or near Houlton, Maine to points in Arkansas, California, Florida, Georgia, Illinois, Indiana, Michigan, Missouri, North Carolina, Ohio, Texas, Virginia, West Virginia and Wisconsin. RESTRICTED to a contract or continuing contracts with A. E. Staley Manufacturing Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois.

No. MC 141363 (Sub-No. 5) (amendment), filed June 6, 1977, published in the FEDERAL REGISTER issue of July 21, 1977 and republished as amended this issue. Applicant: J. M. MARC TRANSPORTATION, INC., 7 Ladik St., Piermont, N.Y. 10968. Applicant's representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, N.Y. 11375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, and materials, equipment and supplies* used in the manufacture and distribution of paper products (except in bulk), between Piermont, N.Y., and Central Islip, N.Y., and points in New Jersey, on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, and Rhode Island, and points in Pennsylvania on and east of U.S. Highway 15, under a continuing contract or contracts with Clevepak Corp. of White Plains, N.Y.

NOTE.—The purpose of this republication is to indicate the additional service point of Central Islip, N.Y. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 141426 (Sub-No. 7), filed June 24, 1977. Applicant: WHEATON CARTAGE CO. (a corporation), Millville, New Jersey 08332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. Authority sought by applicant to operate in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass, metal, plastic, paper, wax, clay, feldspar* and *wood articles* and *products, foodstuffs, antipollution* and *biochemical apparatus, products used in radiological research, organic chemistry kits, bottle coating systems, talc, feldspar, candles, pottery, chinaware, ceramics, gift items, molds* and *machinery, parts* and *accessories* for the above-described commodities, and *materials, equipment* and *supplies* used in the coating production, distribution, assembly, fabrication, manufacture or sale of the above-named commodities (except in bulk, in tank vehicles), between the plant site of and facilities utilized by Wheaton Industries at or near Des Plaines, Illinois, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restriction: The authority sought herein is limited to a transportation service to be performed under a continuing contract or contracts with Wheaton Industries of Millville, New Jersey.

NOTE.—Applicant states that it is a commonly-controlled contract carrier for Wheaton Industries and that it holds authority already on the same commodities between other facilities of Wheaton Industries on the one hand, and, on the other, points in the Continental United States. The purpose of this application is to expand the contract carrier services to embrace the Wheaton facilities at or near Des Plaines, Illinois. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 141511 (Sub-No. 6), filed June 23, 1977. Applicant: ROBERT W. RETTIG, doing business as PROTEIN EXPRESS, Route 3, Hartford, Wis. 53207. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *electrical equipment and appliances and materials, equipment and supplies used in the manufacture, installation and sale thereof*, from the facilities of Broan Manufacturing Co., Inc., located at or near Hartford, Wis., to Montebello, Calif., Salt Lake City, Utah; Pasco, Wash.;

Kansas City, Mo., and Denver, Colo., restricted to the transportation of shipments originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wisc. or Chicago, Ill.

No. MC 141570 (Sub-No. 7), filed June 30, 1977. Applicant: ELECTRONICS TRANSPORT, INC., 3213 Eighth Avenue, North, P.O. Box 31103, Birmingham, Ala. 35222. Applicant's representative: M. Craig Massey, 202 East Walnut Street, Post Office Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines, and parts, materials and supplies, used in the manufacture, installation or sale of such commodities*, between Washington, D.C., and its Commercial Zone, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, West Virginia, and the District of Columbia, under contract with Xerox Corporation.

NOTE.—Applicant holds common carrier authority in MC 136269 Sub 2, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 141652 (Sub-No. 18), filed June 24, 1977. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, MS 39208. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Ceramic road markers* and *fire clay shapes* from Tyler, Texas to Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex. Applicant holds contract carrier authority in No. MC 138807 and sub numbers thereunder; therefore dual operations my be involved.

No. MC 141697 (Sub-No. 1), filed June 16, 1977. Applicant: HYGIN VEILLEUX, 2E Rue Parc Mado., St. Georges Est, Beauce, Quebec, Canada G5Y 5C2. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from ports of entry on the International Boundary line between the United States and Canada located at or near Jackman, Maine to Jay, Maine. Restriction: Restricted (1) to traffic originating at points in the Province of Quebec, Canada; and (2) to a transportation service to be performed under a continuing contract or contracts with Guimont & Freres Ltee located at St. Juste, Quebec, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Augusta or Portland, Maine.

No. MC 141764 (Sub-No. 4), filed June 8, 1977. Applicant: BLACKHAWK ENTERPRISES, a Corporation, 853 Hancock Street, Hayward, Calif. 94545. Applicant's representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except commodities in bulk, those of unusual value, Classes A & B explosives, household goods as defined by the Commission, and those requiring special equipment, and empty bottles or jars, from Millville, N.J.) from points in New Jersey, to Hayward, Calif., under a continuing contract, or contracts, with Shaklee Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

MC 141774 (Sub-No. 8), filed June 24, 1977. Applicant: R. & L. TRUCKING CO., INC., 105 Rocket Avenue, Opelika, Ala. 36801. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *plastic articles and plastic containers*, from the facilities utilized by Arnoldware-Rogers, Inc., in Bay County, Fla., to points in Alabama, Tennessee, Kentucky, Missouri, Mississippi, Arkansas, Georgia and Louisiana; and (2) *materials and supplies*, used in the manufacture of plastic articles and plastic containers (except commodities in bulk, in tank vehicles) from points in Alabama, Tennessee, Kentucky, Missouri, Mississippi, Arkansas, Georgia and Louisiana to the facilities utilized by Arnoldware-Rogers, Inc., in Bay County, Fla.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Panama City, Fla., or Atlanta, Ga. Applicant holds contract carrier authority in MC 163378 and subs thereunder, therefore dual operations may be involved.

No. MC 141804 (Sub-No. 65) filed June 20, 1977, Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn mowers, yard equipment* and *parts*, from Fort Worth, Tex., to points in Pacoima, Calif., restricted to traffic originating at the plantsite and storage facilities utilized by McDonough Power Equipment Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Lincoln, Nebr. Common control may be involved.

No. MC 141804 (Sub-No. 66), filed June 20, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* and *furniture parts* from points in North Carolina, South Carolina, and Virginia to points in Washington, Montana, Idaho, Oregon, California, Nevada, Utah and Arizona.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Lincoln, Nebr. Common control may be involved.

No. MC 141804 (Sub-No. 67), filed June 20, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles, motorcycles, golf carts, go carts, snowmobiles, sporting equipment*, and related *parts* and *accessories*, between points in Los Angeles and Orange Counties, Calif., on the one hand, and on the other, Seattle, Wash.; New Orleans, La.; Chicago, Ill.; Cudahy, Wisc.; Minneapolis, Minn.; Columbus, Ohio; Boston, Mass.; Pennsauken, N.J.; Jacksonville, Fla.; Atlanta, Ga.; and Kansas City, Mo. restricted to traffic originating at or destined to the facilities utilized by Yamaha Motor Corporation, USA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Lincoln, Nebr. Common control may be involved.

No. MC 141804 (Sub-No. 68), filed June 20, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Michael J. Norton, Suite 404, Boston Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sound equipment, components*, and *parts* and *accessories* for sound equipment, from Los Angeles, Calif., to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi; and (2) *equipment, materials* and *supplies*, used in the manufacture and production of sound equipment, components and parts and accessories, from points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi to Los Angeles, Calif. Restricted in parts I and II above to traffic originating at or destined to the plantsite or storage facilities utilized by Jennings Research Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Memphis, Tenn. Common control may be involved.

No. MC 140065 (Sub-No. 7), filed June 20, 1977. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., Post Office Drawer F, Mulberry,

Arkansas 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Arkansas 72756. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Central Heating Units, Central Air Conditioning Units, Furnaces, Air Coolers, Water Evaporators, Condensing Units, Compressors, Electric Motors, Parts, Equipment and Supplies,* from Milledgeville, Georgia and Fort Smith, Arkansas, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Indiana, Illinois, Kentucky, Maryland, Massachusetts, Maine, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia; and (2) *Parts, Equipment and Supplies used in the manufacture and installation of the commodities named in (1), above,* from Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Indiana, Illinois, Kentucky, Maryland, Massachusetts, Maine, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, to Milledgeville, Georgia and Forth Smith, Arkansas, under a continuing contract or contracts with Rheem Manufacturing Company, Heating and Air Conditioning Division, at or near Fort Smith, Arkansas.

NOTE.—Applicant has pending motor common carrier authority in No. MC 142672 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Little Rock, Ark. or Tulsa, Okla.

No. MC 142347 (Sub-No. 3), filed June 21, 1977. Applicant: C & C TRUCKING COMPANY, INC., P.O. Box 293, Route 2, Hephzibah, Georgia 30815. Applicant's representative: William Addams, Suite 212–5299 Roswell Road, N.E., Atlanta, Georgia 30342. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *fertilizer and fertilizer materials,* in bulk, and in bags, from Spartansburg, Hartsville and Charleston, South Carolina to points in Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Atlanta, Georgia.

No. MC 142508 (Sub-No. 6), filed May 31, 1977. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Applicant's representative: Joseph Winter, 33 N. LaSalle St., Chicago, IL 60602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicle parts tools, and related advertising materials,* from the plantsite and facilities of D.J.T. Realty Co., located at or near Reno, Nevada, to points in Arizona, California, Idaho, Oregon, Washington and Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Missouri or Chicago, Illinois. Applicant holds contract carrier authority in MC 134734 and subs thereunder, threefore dual operations may be involved.

No. MC 142766 (Sub-No. 7), filed June 21, 1977. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Ave., Kearny, N.J. 07032. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Toys, games, and commodities sold in toy stores, between Moonachie, Piscataway, Passaic, Elizabeth, Bayonne, and Paterson, N.J., Bayshore, Mount Vernon, Mellville, Ellenville, and New York, N.Y., East Meadow and Salem, Mass., West Haven, Bridgeport, Enfield, Conn., on the one hand, and, on the other, the warehouse facilities of Toys R Us located at or near Bensenville, Ill., Melvindale, Mich., Houston, Tex., San Jose and Compton, Calif. (1) restricted to the transportation of shipments originating at the named origins and destined to the named destinations.

NOTE.—Applicant holds motor contract carrier authority in No. MC–142766 (Sub-No. 1 and others), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held in either New York, N.Y., or Washington, D.C.

No. MC 142779 (Sub-No. 1), filed May 31, 1977. Applicant: WEIER AIR FREIGHT, INC., 5785 Rochelle Drive, Greendale, Wisconsin 53129. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wisconsin 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Materials, equipment, supplies, and parts, used or useful in the manufacture, sale, distribution, or production of agricultural, industrial, and construction machinery and equipment, and printed matter between Racine and Sturtevant, Wis., on the one hand, and, on the other, General Mitchell Field, Milwaukee, Wis., and O'Hare International Airport, Cook County, Ill. Restricted to traffic originating at or destined to the plantsites, warehouses and facilities of J. I. Case Company located at Racine and Sturtevant, Wis., and further restricted to shipments having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 142832 (Sub-No. 1), filed June 22, 1977. Applicant: SPIDER WRECKER SERVICE, INC., P.O. Box 505, Conley, Georgia 30027. Applicant's representatives: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *disabled trucks, tractors, and trailers, and replacements* therefor, between points in Georgia, on the one hand, and, on the other, points in Alabama, Delaware, Florida, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Texas, Arkansas, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 142948 (Sub-No. 2), filed June 6, 1977. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, Tenn. 37211. Applicant's representative: Edward C. Blank II, Middle Tennessee Bank Bldg., P.O. Box 1004, Columbia, Tenn. 38401. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Gum solvents, aluminum plate and sheet, plastic powder, photo-offset printing plates, sponges, cellulose, and plastic dry* from the plantsite of Citiplate-Sumner Williams in Jackson, Tenn., to points in Oklahoma, Texas, New Mexico, Arizona, California, Nevada, Utah, Colorado, Illinois, Ohio, and New York. Restriction: Restricted to traffic originating at the above locations and destined to the above named designation points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held either in Jackson, Tenn.; or Nashville, Tenn.

No. MC 143040 (Sub-No. 1), filed June 24, 1977. Applicant: SPRINGER VAN LINES, INC., 1212 West Fairmont, Tempe, Arizona 85282. Applicant's representative: William A. Booth, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, California 90017. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes in the transportation of: *Used household goods,* between points in Arizona, restricted to the transportation of traffic having a prior or subsequent movement in interstate or foreign commerce, and further restricted to the performance of pickup and delivery service in connection with packing, crating, containerization, or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Phoenix, Ariz.

No. MC 143048 (Sub-No. 2), filed June 13, 1977. Applicants: FRANCIS E. CONDON AND JOHN H. CONDON, doing business as D. AND F. KITCHEN CABINET DELIVERY, a partnership, 153 LaGrange Street, West Roxbury, Mass. 02132. Applicants' representative: Paul E. Murphy, 8th Floor, One State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *bathroom sinks, bathroom sink faucets, commercial cabinets, computer tops, counter tops, cultured marble vanity tops, desks, engine storage cabinets, kitchen cabinets, kitchen sinks, kitchen sink facuets, night stands, vanity cabinets, video game cabinets,* and *wardrobes* from West Bridgewater, Mass., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Co-

lumbia; and return of rejected goods, under a continuing contract or contracts with N. J. MacDonald & Sons, Inc., located at West Bridgewater, Mass.

NOTE.—If a hearing is deemed necessary, applicants request that it be held at Boston, Mass., or Providence, R.I.

MC 143059 (Sub-No. 1), filed June 27, 1977. Applicant: MERCER WATER & SEWER TRANSPORTATION CO., a corporation, P.O. Box 4474, Fort Worth, Tex., 76102. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, plastic articles, plastic pipe, tubing, fittings, connections* and *materials, supplies and accessories*, used in the manufacture and installation thereof (except in bulk, in tank vehicles), between the facilities by Robintech Incorporated at or near Evansville, Ind.; Monroe County (Prairie), Miss.; Danville, Ill.; Sylvania, Ohio; Slidell, La.; New Orleans, La.; and Pace, Fla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 143159 (Sub-No. 1), filed June 23, 1977. Applicant: BRICK HAULERS, INC., Route 1, Box 407, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick*, from Kings Mountain, Monroe, Pleasant Garden, Roseboro and Salisbury, N.C., to points in Alabama, Florida, Georgia, South Carolina, Tennessee, and Virgina; (2) *Returned, rejected, and damaged commodities* in (1), from the destination points to the origin points in (1); (3) *Brick*, from Columbia, Greenville, Pine Island and Van Wyck, S.C., and the plantsites of Boren Clay Products Company located at or near Blacksburg and Gaffney, S.C., to points in Alabama, Florida, Georgia, North Carolina, Tennessee, and Virginia; and (4) *Returned, rejected, and damaged commodities* in (3), from the destination points to the origin points in (3), under a continuing contract, or contracts, with Boren Clay Products Company.

NOTE.—If a hearing is deemed necessary, the applactn requests that it be held at Charlotte, N.C.

No. MC 143245 (Sub-No. 1), filed June 24, 1977. Applicant: E. C. TRANSFER, CORP., P.O. Box 481006, Miami, Fla. 33148. Applicant's representative: Richard B. Austin, Suite 214, Palm Coast II Bldg., 5255 NW., 87th Avenue, Miami, Fla. 33178. Applicant seeks authority to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of general commodities (except 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 equipment) between points in Dade County, Fla. Restricted to traffic having an immediate prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Miami, Fla.

No. MC 143285 (Correction), filed May 12, 1977, published in the FEDERAL REGISTER issue of June 30, 1977, republished as corrected this issue. Applicant: MONROE'S GARAGE & WRECKER SERVICE, Route No. 1, Surgoinsville, Tenn., Applicant's representative: Wayne S. Monroe (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles* and *trailers and operative motor vehicles* to replace wrecked or disabled motor vehicles, between Kingsport, Tenn., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Kentucky, North Carolina, South Carolina, Virginia and West Virginia.

NOTE.—The purpose of this republication is to correct the territorial description which was inadvertently published in error. If a hearing is deemed necessary, the applicant requests it be held at Kingsport, Tenn.

No. MC 143334 filed May 31, 1977. Applicant: WALTEC DISTRIBUTION LIMITED, P.O. Box 936, 471 Dundas Street, Cambridge, Ontario, Canada N1R 5X9. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, New York 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) plumbing supplies and equipment, forgings and castings; and (2) materials, equipment and supplies used in the manufacture or production of the commodities named in (1) above, between ports of entry on the International Boundary line between the United States and Canada located in New York and Michigan, on the one hand, and, on the other, points in Arkansas, Connecticut, Georgia, Iowa, Illinois, Indiana, Kentucky, Michigan, Missouri, New York, Ohio, Pennsylvania, Texas, Virginia and Wisconsin; restricted to the transportation of traffic originating at or destined to the plant sites or storage facilities at Waltec Forgings Ltd. Waltec Engineering Ltd., Waltec Industries Ltd., and Kindred Industries Ltd., located at or near Cambridge, Midland, Toronto and Wallaceburg, Ontario under continuing contracts with these companies.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, N.Y.

No. MC 143372 (Sub-No. 1), filed June 30, 1977. Applicant: PEOPLES TRANSFER, INC., 1712 S. Bunn Street, Bloomington, Ill. 61701. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, carpet padding, vinyl flooring, and flooring products*, between the facilities of Carpetland U.S.A., located at or near Munster, Ind., on the one hand, and, on the other, points in the Commercial Zones of Bloomington, Champaign, Decatur, Elk Grove Village, Joliet, Peoria, and Springfield, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 143403 (Sub-No. 1), filed June 21, 1977. Applicant: MADISON COAL & SUPPLY COMPANY, a Corporation, Port Amherst, Charleston, W. Va. 25306. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Lee, Owsley, Rockcastle, Jackson, Breathitt, Leslie, Perry, Morgan, Magoffin, Clay, Wolfe, Johnson, and Pike Counties, Kentucky to points in Hamilton County, Ohio, under contract with Hatfield Coals Division of Amherst Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Charleston, W. Va.

No. MC 143413 (Sub-No. 1), filed June 21, 1977. Applicant: A & B WILSON & SONS, INC., 261 Squawbrook Road, North Haledon, N.J. 07508. Applicant's representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *contract carrier*, over irregular routes, of *Piece goods*, in individual rolls, and *materials and supplies*, used in the dyeing or finishing of piece goods, between the plant sites of Braendly-Fishkill, Inc., at Beacon, N.Y., on the one hand, and, on the other, points in the New York N.Y. Commercial Zone as defined by the Commission, limited to a service performed under a continuing contract with Braendly-Fishkill, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. 143417 filed June 23, 1977. Applicant: FLASH INTERSTATE DELIVERY SYSTEM, INC., 4711 West 16th Street, Cicero, Illinois 60650. Applicant's representative: Barry Roberts, 888 17th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: general commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Michigan and Ohio to Chicago, Ill., restricted to traffic having a subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. Common control may be involved.

MC 143418 filed June 24, 1977. Applicant; JIM ALLGOOD, doing business as Jim Allgood Trucking, 1301 West Clinton, Tulare, Calif. 93274. Applicant's repre-

sentative: Lucy Kennard Bell, Suite 1800 United California Bank Bldg., 707 Wilshire Boulevard, Los Angeles, Calif. 90017. Applicant seeks authority as a *contract* carrier by motor vehicle, over irregular routes, in the transportation of: Coal, in bulk, from the Coastal States Energy Co. coal unloading station located at or near Nipton, Calif. to the Mojave Power Station located at or near Davis Dam, Nev., under a continuing contract or contracts with Coastal States Energy Co., of Houston, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 143419, filed June 23, 1977. Applicant: SUMMIT FOODS TRANSPORTATION COMPANY, a Corporation, 3333 North Quebec Street, Denver, Colo. 80207. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, between Lincoln, Nebr., and Reed City, Mich., on the one hand, and, on the other, points in Arizona, Arkansas, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, New Mexico, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming; and (2) *materials, supplies, and equipment utilized in the manufacture, processing or sale of dairy products*, from points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, New Mexico, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, to Lincoln, Nebr., and Reed City, Mich., restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles; and further restricted to transportation under a continuing contract or contracts with Summit Foods Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Denver, Colo., or Lincoln, Nebr.

No. MC 143428, filed June 23, 1977. Applicant: FARWEST INDUSTRIES OF LONGVIEW, INC., 225 Industrial Way, Longview, Washington 98632. Applicant's representative: Robert D. Portner, 225 Industrial Way, Longview, Washington, 98632. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Treated Poles and Piling, between Oregon, Washington, and California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 143429, filed June 22, 1977. Applicant: BILL BARTON, doing business as MAC B. COMPANY, 2916 Princeton Street, Plano, Tex. 75075. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over *irregular routes*, transporting: *Rock wool, glass mineral wool, mineral wool paper, bulk mineral wool*, unsuitable only for machine processing, in bales and bags, and *high pressure cement*, from Texarkana, Ark., to points in Texas, Oklahoma, Louisiana, New Mexico, Missouri, Mississippi, and Kansas, under a continuing contract or contracts with Mineral Fibers Co., and INSCO (A Corporation), located at Texarkana, Ark.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at Dallas or Forth Worth, Tex.

No. MC 143430, filed June 24, 1977. Applicant: PRIME TRUCKING, INC., P.O. Box 31, 100 South Kimball Street, Bradford ,Mass. 01830. Applicant's representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, Mass. 01960. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by manufacturers of pulpboard and fibreboard and materials, supplies, and equipment used in connection therewith (except commodities in bulk, in tank or hopper type vehicles), between Bradford, Mass., on the one hand, and, on the other, points in the United States in and east of Wisconsin, Illinois, Missouri, Arkansas, and Texas, under a continuing contract, or contracts, with Haverhill Paperboard Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Boston, Mass.

PASSENGERS

No. MC 52655 (Sub-No. 5), filed May 25, 1977. Applicant: UNITED MOTOR WAYS, INC., 108 E. 4th St., Grand Island, Nebr. 68801. Applicant's representative: Leonard Forsman, 1618 West Louise, Grand Island, Nebr. 68801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, from Hall, Adams, Buffalo, Phelps, Dawson, Hamilton, Merrick, Howard, Custer, Clay, and Nance Counties, Nebr., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Grand Island or Hastings or Holdrege, Nebr.

No. MC 115521 (Sub-No. 5), filed June 24, 1977. Applicant: MCDERMOTT BUS CORP., 2164 Caton Avenue, Brooklyn, N.Y. 11226. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *passengers and their baggage*, between the Boroughs of Brooklyn and Queens, in the city of New York, and points in Nassau County, N.Y., on the one hand, and, on the other, Atlantic City, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 143366 (Sub-No. 1), filed June 21, 1977. Applicant: ROBERT W. PICKERT, JR. AND JUDY PICKERT, a Partnership, doing business as SEE AMERICA FIRST TRAVEL CAMP, Hackley School, Tarrytown, N.Y. 10591. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in an all expense, round trip camping trip in camper type vehicles not exceeding 16 passengers, including the driver, beginning and ending at Tarrytown, N.Y., and extending to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y.

No. MC 143432, filed June 27, 1977. Applicant: GUILFORD LIVERY SERVICE INC., 115 Church Street, Guilford, Connecticut, 06437. Applicant's representative: George P. Hudson, 19 Farrell Street, Hamden, Connecticut 06518. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers*, from Clinton, Durham, Madison, and Guilford, Connecticut to New York City and return. Limited to six (6) passengers, not including driver.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Haven or Hartford, Conn.

BROKER APPLICATIONS

No. MC 130450, filed June 20, 1977. Applicant: GENERAL MILLS FUN GROUP, INC., 9200 Wayzata Boulevard, Minneapolis, Minnesota 55426. Applicant's representative: Gilbert B. Lessanco, 2021 L Street, N.W., Washington, D.C. 20036. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Minneapolis, Minnesota, to sell or offer to sell the transportation of *passengers and their baggage*, in special and charter operations, by motor common carrier, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minnesota.

No. MC 130451, filed June 20, 1977. Applicant: RUTT'S TOURS, P.O. Box 106, Intercourse, Pa. 17534. Applicant's representative: Richard M. Rutt (Same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Intercourse and Lancaster, Pa., to sell or offer to sell the transportation of passengers and their baggage, in round trip charter all expense tours by motor carriers, beginning and ending at points in Lancaster County, Pa. and extending to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Lancaster, Pa.

No. MC 130452, filed June 20, 1977. Applicant: GILBERT B. WOODWORTH, doing business as WOODWORTH FUN

TOURS, 113 Kentucky Street, Petaluma, Calif. 94952. Applicant's representative: Max Mickelsen, 245 Kentucky Street, Petaluma, Calif. 94952. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Petaluma, Calif., to sell or offer to sell the transportation of *passengers and their baggage*, in round trip special and charter operations, by motor carriers, beginning and ending at points in Sonoma County, Calif., and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Petaluma, Santa Rosa, or San Francisco, Calif.

FREIGHT FORWARDER APPLICATION

No. FF 485 (Sub-No. 1), filed June 29, 1977. Applicant: AIR VAN LINES INTERNATIONAL, INC., 209 Post Road, Anchorage, Alaska 99501. Applicant's representative: Michael J. Roberts, 1660 L Street, N.W., Suite 1000, Washington, D.C. 20036. Authority sought to engage in operation, in interstate and foreign commerce, as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water, and express, in the transportation of (a) *used household goods, unaccompanied baggage*, and (b) *used automobiles*, between points in the United States (excluding Alaska and Hawaii), and between points in Alaska, restricted in (b) to the transportation of export-import traffic, and operations in Alaska restricted to the transportation of export-import traffic.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Seattle, Washington, or Anchorage, Alaska.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pusuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-11022 (Supplemental) (PACIFIC INTERMOUNTAIN EXPRESS CO., INC., ET AL—POOLING—GRAVES TRUCK LINE INC.), published in the November 25, 1970 issue of the FEDERAL REGISTER and by supplement published February 21, 1974. The instant proceedings is one which seeks to further amend the original pooling agreement by including the Co-applicant, ROCK ISLAND MOTOR TRANSIT COMPANY. By application filed July 28, 1977, the ROCK ISLAND MOTOR TRANSIT COMPANY and GRAVES TRUCK LINE, INC. hereby apply for authority under Section 5(1) of the Interstate Commerce Act to enter into an Agreement for the pooling of traffic moving in interstate commerce between points in Stone, Tyrone, Hooker, Optima, Guymon, Junior, Goodwell, and Texhoma, Oklahoma and Texhoma, Stratford, Conlen, and Dalhart, Texas. The applicants are common carrier carrier by motor vehicle operating in interstate commerce to, from and between points in the States of inter alia, Oklahoma and Texas, pursuant to authority granted to each by the Interstate Commerce Commission.

No. MC-F-13291. Authority sought for control by WM. H. PENDLETON, 1625 Hornbrook, Dyersburg, Tenn. 38024, of (B) SARTAIN TRUCK LINE, INC., 1354 North Second Street, Memphis, Tenn. 38101, and to continue to control (BB) DYERSBURG EXPRESS, INC., Nashville, Tenn., through the acquisition of capital stock. Applicants' attorney: Warren A. Goff, 2008 Clark Tower, Memphis, Tenn. 38137. Operating rights sought to be controlled: (B) Under No. MC-85970 and subs thereunder, general commodities, with exceptions as a common carrier over regular routes between Memphis, Tenn., and Union City, Tenn., serving the intermediate points of Newbern, Trimble, Obion, Troy, and Templeton, Tenn., with restrictions; Under a certificate of Registration in No. MC 85970 (Sub-No. 5), covering the transportation of property and General commodities, as a common carrier solely within the State of Tennessee; Under a certificate of Registration in No. 85970 (Sub-No. 6), covering the transportation of General commodities solely within the State of Tennessee; Under a certificate of Registration in No. MC 85970 (Sub-No. 7) covering the transportation of property and General commodities as a common carrier over regular routes solely within the State of Tennessee. (BB) General commodities, with exceptions as a common carrier over regular routes between Dyersburg, Tenn., and Phillippy, Tenn., serving all intermediate points, and the off route points of Finley, Lenox, Miston, and Samburg, Tenn.; between Memphis, Tenn., and Dyersburg, Tenn., serving all intermediate points, and the off route points of Lucy, Munford, and Rialto, Tenn.; between Tiptonville, Tenn., and Union City, Tenn., serving all intermediate points, except Troy, Tenn. WM. H. PENDLETON, holds no authority from this Commission. However, WM. H. PENDELTON has common control of DYERSBURG EXPRESS, INC.

NOTE.—By application filed September 24, 1976, in Docket No. MC 85970 (Sub-No. 8), SARTAIN TRUCK LINES, INC., states that the purpose in part, of this application is to convert a Certificate of Registration in Nos. MC 85970 (Subs. 5, 6, and 7) to Certificate of Public Convenience and Necessity.

No. MC-F-13293. Authority sought for purchase by QUICK AIR FREIGHT, INC., Cargo Bldg., Port Columbus Airport, Columbus, OH., 43219, of the operating rights of VANDALIA AIR FREIGHT, INC., Dayton Municipal Airport, Dayton, OH., 45377, and for acquisition by UNITED TRANSPORTATION, INC., 525 Kennedy Drive, Columbus, OH., of control of such rights through the purchase. Applicants' attorney: Russell S. Bernhard, 1625 K St., N.W., Washington, D.C. 20006. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular and irregular routes between Vandalia, Ohio Airport, Ohio, and Dayton, Ohio, serving all intermediate points, between Vandalia, Ohio Airport, Ohio, and Springfield, Ohio, serving all intermediate points, between Vandalia, Ohio Airport, Ohio, and Sidney, Ohio, serving all intermediate points, with restrictions; General commodities, with exceptions as a common carrier over irregular routes between points in Butler Township (Montgomery County), Ohio, on the one hand, and, on the other, points in Ohio, with restrictions. Vendee is authorized to operate as a common carrier in Ohio, Illinois, Indiana, Kentucky, Michigan, New York, West Virginia, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC-116101 (Sub-No. 11) is a directly related matter.

No. MC-F-13294. Authority sought for purchase by D & N TRANSPORTATION COMPANY, INC., 28 Privilege Street, Woonsocket, Rhode Island, 02895 of the operating rights of G & L TRANSPORTATION COMPANY, INC., 743 North Main Street, Woonsocket, Rhode Island, 02895, and for acquisition by JEAN P. CODERRE, 256 Nursery Avenue, Woonsocket, Rhode Island, 02895, of control of such rights through the purchase. Applicants' attorney: Frank J. Weiner, 15 Court Square, Boston, Massachusetts 02108. Operating rights sought to be transferred: Under a certificate of Registration in Docket No. MC-98169 (Sub-No. 1), covering the transportation of General commodities, as a common carrier solely within the State of Rhode Island. Vendee is authorized to operate as a common carrier in Massachusetts, Rhode Island and Connecticut. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC-34952 (Sub-No. 3) is a directly related matter.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must

be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's "General Rules of Practice" (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 34952 (Sub-No. 3), filed July 26, 1977. Applicant: D & N TRANSPORTATION COMPANY, INC., 28 Privilege Street, Woonsocket, Rhode Island 02895. Applicant's representative: Frank J. Weiner, Esq., 15 Court Square, Boston, Massachusetts 02108. 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 in "Practices of Motor Common Carriers of Household Goods," 17 M.C.C. 467, commodities in bulk and those commodities requiring special equipment), between points in Rhode Island.

NOTE.—The purpose of this filing is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a Section 5(2) finance proceeding in Docket No. MC-F-13294 published in a prior section of this FEDERAL REGISTER issue. If a hearing is deemed necessary, applicant requests that it be held at Providence, R.I.

No. MC 116101 (Sub-No. 11), filed June 15, 1977. Applicant: QUICK AIR FREIGHT, INC., Cargo Bldg., Port Columbus Airport, Columbus, Ohio 43219. Applicant's representative: Russell S. Bernhard, 1625 K Street, NW., Washington, D.C. 20006. (1) Applicant presently holds authority as follows: *General commodities* (except Classes A and B explosives), (a) between the Port Columbus Airport, Port Columbus, Ohio, on the one hand, and, on the other, points in all or parts of thirty-two Ohio Counties surrounding Columbus, Ohio; (b) between the Port Columbus Airport, Columbus, Ohio, the Cleveland-Hopkins Airport, Cleveland, Ohio, the J. M. Cox Municipal Airport, Dayton (Vandalia), Ohio, and the Greater Cincinnati Airport in Kentucky (near Cincinnati, Ohio); RESTRICTION: the authority in (a) and (b) above is restricted to shipments having a prior or subsequent movement by aircraft; (c) *General Commodities*, moving in express service, (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between points in thirty-eight Ohio Counties surrounding Columbus, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Michigan (except points in the Upper Peninsula), New York, and Pennsylvania. Restriction: the authority in (c) above is restricted to the exclusive use of one motor vehicle in the transportation of a single shipment, not weighing more than 5,000 pounds, from one consignor at one location to one consignee at one location in any one day; and (2) Vendor (Vandalia Air Freight, Inc., the wholly-owned subsidiary of applicant) presently holds authority as follows:

*General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), including those general commodities having a prior or subsequent movement by air, between points in Butler Township (Montgomery County), Ohio, on the one hand, and, on the other, points in Ohio; Restriction: The authority granted in (2) above is restricted against the transportation of general commodities from or to Vandalia, Ohio (except shipments originating in or destined to a point in said Butler Township), office furniture and fixtures, furnishing dump truck service, and livestock (except when handled in connection with air transportation). By the instant application, applicant seeks to tack the authority described in (2) above to the auhority described in (1) above at the J. M. Cox Municipal Airport (Dayton-Vandalia), Ohio, which is the present interchange point between applicant and vendor. No Gateway Elimination is sought at the present time in this matter.

NOTE.—This is a matter directly related to a Section 5(2) finance proceeding in MC-F-13293. If a hearing is deemed necessary, the applicant requests it be held either at Columbus, Ohio, or Washington, D.C. Notice of the application filing in MC-F-13293 appears in a prior section of this FEDERAL REGISTER issue.

No. MC 121654 (Sub-No. 7), filed July 29, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., Post Office Box 7438, Savannah, Georgia 31408. Applicant's representative: Guy H. Postell, Postell & Hall, 3384 Peachtree Road NE., Atlanta, Georgia 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, iron and steel articles, and iron and steel products*, between Savannah, Port Wentworth, and Garden City, Georgia, on the one hand, and, on the other, points in Georgia. NOTE: This is a matter directly related to MC-F-13209, Refrigerated Transport Co., Inc.—Purchase—Coastal Transport & Trading Co. NOTE: Common control and dual operations may be involved. The purpose of the application is to convert applicant's authority from a certificate of registration. If hearing is deemed necessary, applicant requests that it be held at (1) Savannah, Ga.; (2) Atlanta, Ga.; or (3) Washington, D.C. Notice of the application filing in MC-F-13209 appeared in the FEDERAL REGISTER issue of May 12, 1977.

## ABANDONMENT APPLICATIONS

### NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-1 (Sub-No. 48)]

### CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN SANBORN AND WANDA IN REDWOOD COUNTY, MINNESOTA

### NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on May 23, 1977, a finding, which is administratively final, was made by the Commission, Division 3, acting as an Appellate Division, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its line of railroad from milepost 8.8 near Wanda, Minnesota, to milepost .6 near Sanborn, Minnesota, a distance of approximately 8.2 miles in Redwood County, Minnesota. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would :

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the con-

tinued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1796, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-55 (Sub-No. 1)]

SEABOARD COAST LINE RAILROAD COMPANY ABANDONMENT BETWEEN TRILBY AND CHEMICAL, FLORIDA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C.1a(6)(a)) that by an order entered on February 18, 1977, a finding which is administratively final, was made by the Commission, Division 3, acting as an Appellate Division, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of that portion of its line of railroad from milepost ARE-823.65 near Trilby in a southwesterly direction to milepost ARE-866.00 near Chemical, Florida, a distance of 42.35 miles. A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Deviation No. 160), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed August 2, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Nashville, Tenn., over Alternate U.S. Highway 41 to Shelbyville, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Nashville, Tenn., over U.S. Highway 31 to junction Tennessee Highway 50, thence over Tennessee Highway 50 to Lewisburg, Tenn., thence over Tennessee Highway 11 to Farmington, Tenn., thence over Tennessee Highway 64 to Shelbyville, Tenn., and return over the same route.

No. MC 11220 (Deviation No. 34), GORDONS TRANSPORTS, INC., 185 W. McLemore Ave., Memphis, Tenn. 38101, filed August 2, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Adamsville, Tenn., over Tennessee Highway 22 to junction Interstate Highway 40, thence over Interstate Highway 40 to Nashville, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Adamsville, Tenn., over U.S. Highway 64 to Pulaski, Tenn., thence over U.S. Highway 31 to Decatur, Ala., thence over Interstate Highway 65 to Nashville, Tenn., and return over the same route.

No. MC 30504 (Deviation No. 23), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed July 21, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, Mo., over U.S. Highway 65 to Des Moines, Iowa and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, Mo., over U.S. Highway 66 to junction U.S. Highway 71, thence over U.S. Highway 71 to Kansas City, Mo., thence over Alternate U.S. Highway 69 to junction U.S. Highway 69, thence over U.S. Highway 69 to Des Moines, Iowa, and return over the same route.

No. MC 30504 (Deviation No. 24), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed July 21, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, Mo., over U.S. Highway 65 to junction Missouri Highway 32, thence over Missouri Highway 32 to junction Missouri Highway 73, thence over Missouri Highway 73 to junction U.S. Highway 54, thence over U.S. Highway 54 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction Iowa Highway 149, thence over Iowa Highway 149 to Cedar Rapids, Iowa, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, Mo., over U.S. Highway 66 to junction U.S. Highway 71, thence over U.S. Highway 71 to Kansas City, Mo., thence over Alternate U.S. Highway 69 to junction U.S. Highway 69, thence over U.S. Highway 69 to Des Moines, Iowa, thence over U.S. Highway 65 to junction Iowa Highway 330, thence over Iowa Highway 330 to Marshalltown, Iowa, thence over U.S. Highway 30 to Cedar Rapids, Iowa, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in

intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T 9492, filed July 12, 1977. Applicant: KENNY THE MOVER, INC., 606A Third Street, Brooklyn, N.Y. 11215. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Household goods*, from New York, N.Y., to points in New York. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, Building 5, State Campus, Albany, N.Y. 12232 and should not be directed to the Interstate Commerce Commission.

New York Docket No. T 9493, filed July 22, 1977. Applicant: RAPID AIR FREIGHT, INC., 20 Loudonville Road, Albany, N.Y. 12204. Applicant's representative: Vorton B. Boghosian, Commerce Building, 678 Troy-Schenectady Road, Latham, N.Y. 12110. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Baggage and personal property of airline passengers* having a prior or subsequent movement by air plus air freight 0–50 pounds, single aggregate of 100 pounds, delivered the same day, from the Albany County Airport, to the following Counties: Albany, Columbia, Essex, Delaware, Dutchess, Fulton, Greene, Hamilton, Herkimer, Montgomery, Orange, Otsego, Rensselaer, Saratoga, Schoharie, Warren, Schenectady, Sullivan, Ulster and Washington. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, Building 5, State Campus, Albany, N.Y. 12232 and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. Homme, Jr.,
*Acting Secretary.*

[FR Doc.77-23082 Filed 8-10-77;8:45 am]

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[Notice No. 456]

## ASSIGNMENT OF HEARINGS

August 6, 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 hearing 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 42487 (Sub-No. 860), Consolidated Freightways Corp. of Delaware, now being assigned October 3, 1977 (1 day), at Atlanta, Ga., in a hearing room to be later designated.

MC 59957 (Sub-No. 50), Motor Freight Express, now being assigned October 17, 1977 (1 week), at Pittsburgh, Pa., in a hearing room to be later designated.

MC-C-9615, *Ridgeway Tours, Inc.* v. *Keys to Better Living, Inc., et al.*, now being assigned October 5, 1977 (2 days), at Harrisburg, Pa., in a hearing room to be later designated.

MC 130442, Shelmont, Inc., now being assigned October 5, 1977 (3 days), at Atlanta, Ga., in a hearing room to be later designated.

MC 143130, Ritchie Bus Lines, Inc., now being assigned October 17, 1977 (1 week), at Boston, Mass., in a hearing room to be later designated.

MC 55898 (Sub-No. 53), Decato Bros., Inc., now being assigned October 12, 1977 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC 2900 (Sub-No. 298), Ryder Truck Lines, Inc., now being assigned October 12, 1977 (3 days), at Atlanta, Ga., in a hearing room to be later designated.

MC 8964 (Sub-No. 32), Witte Transportation Co., now being assigned November 1, 1977 (9 days), at St. Paul, Minn., in a hearing room to be later designated.

MC-F-1291 and MC 98327 (Sub-No. 22), System, 99—Purchase (Portion)—Compton Transfer & Storage Co., now being assigned continued hearing at San Francisco, Calif. (8 days), in a hearing room to be later designated.

MC 2202 (Sub-No. 528, Roadway Express, Inc., now being assigned November 1, 1977 (2 days), at Atlanta, Ga., in a hearing room to be later designated.

MC-C-9684, *Carl R. Rieber, Inc.*, v. *Trans Bridge Lines, Inc.*, now being assigned October 17, 1977, at Philadelphia, Pa., (1 day), in a hearing room to be later designated.

MC 142881 (Sub-No. 2), Rexford C. Greer, d.b.a. American Truck Stop, now being assigned October 18, 1977 (1 day), at Philadelphia, Pa., in a hearing room to be later designated.

MC 142881 (Sub-No. 1), Rexford C. Greer, d.b.a. American Truck Stop, now being assigned October 19, 1977 (3 days), at Harrisburg, Pa., in a hearing room to be later designated.

MC 115495 (Sub-Nos. 3, 4, 7, 14, 16, 20, 22, 24G, 25G), United Parcel Service, Inc., MC 116200 (Sub-Nos. 2, 3, 5), United Parcel Service Inc., now assigned continued hearing on October 18, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C., and continued to November 29, 1977 (4 weeks), at Chicago, Ill., and on January 10, 1978 (4 weeks), at Denver, Colo., in hearing rooms to be later designated.

MC 97068 (Sub-No. 16), H.S. Anderson Trucking Co., now being assigned October 17, 1977 (1 week), at New Orleans, La., in a hearing room to be later designated.

AB 12 (Sub-No. 52), Southern Pacific Transportation Co., abandonment between Kaplan and Eunice, in Acadia, St. Landry, and Vermilion Parishes, La.

MC 129537 (Sub-No. 19), Reeves Transportation Co., now being assigned October 17, 1977 (1 week), at Atlanta, Ga., in a hearing room to be later designated.

MC-F-13164, Overnite Transportation Co.—Purchase—Bonifield Bros. Truck Lines, Inc. and MC 109633 (Sub-No. 85, Overnite Transportation Co., Inc., now being assigned November 29, 1977 (9 days), at Evansville, Ind. in a hearing room to be later designated.

MC 135316 (Sub-No. 5), Air Truck Service, Inc., d.b.a. Kanawha Valley Air Freight, now being assigned October 18, 1977 (3 days), at Columbus, Ohio, in a hearing room to be later designated.

MC 114273 (Sub-No. 266), CRST, Inc., now being assigned November 1, 1977 (1 day), at Des Moines, Iowa, in a hearing room to be later designated.

MC 119441 (Sub-No. 42), Baker Hi-Way Express, Inc., now being assigned December 5, 1977 (1 week), at Columbush, Ohio, in a hearing room to be later designated.

AB 18 (Sub-No. 15), Chesapeake & Ohio Railway Co. abandonment portion Armitage Branch between Oldtown and Nelsonville, in Hocking and Athens Counties, Ohio, now being assigned November 30, 1977 (1 week), at Columbus, Ohio, in a hearing room to be later designated.

MC 136343 (Sub-No. 105), Milton Transportation, Inc., now being assigned November 1, 1977 (1 day), at Buffalo, N.Y., in a hearing room to be later designated.

MC 143139, Larry's Collision, Inc., now being assigned November 2, 1977 (3 days), at Buffalo, N.Y., in a hearing room to be later designated.

AB 19 (Sub-No. 34), the Pittsburg & Western Railroad Co. and the Baltimore & Ohio Railroad Co. abandonment near Parkers Landing and Mt. Jewitt in Armstrong, Clarion, Forest, Elk, and McKean Counties, Pa., now being assigned November 7, 1977 (1 week), at Kane, Pa., in a hearing room to be later designated.

MC 53965 (Sub-No. 129), Graves Truck Line, Inc.; MC 114632 (Sub-No. 106), Apple Lines, Inc.; MC 134755 (Sub-No. 94), Charter Express, Inc.; and MC 139973 (Sub-No. 21), J. H. Ware Trucking, Inc., now being assigned November 10, 1977 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 127187 (Sub-No. 22), Floyd Duenow, Inc., now assigned September 13, 1977, at St. Paul, Minn., will be held in Room 525, Federal Building, 316 N. Robert Street.

MC 133689 (Sub-No. 90), Overland Express, Inc., now assigned September 14, 1977, at St. Paul, Minn., will be held in Room 525, Federal Building, 316 N. Robert Street.

MC 140829 (Sub-No. 32), Cargo Contract Carrier Corp., now assigned September 15, 1977, at St. Paul, Minn., will be held in Room 525, Federal Office Building, 316 N. Robert Street.

MC 30844 (Sub-No. 577), Kroblin Refrigerated Xpress, Inc., MC 117815 (Sub-No. 261), Pulley Freight Lines, Inc., MC 118202 (Sub-No. 68), Schultz Transit, Inc., and MC 124813 (Sub-No. 162), Umthun Trucking Co., now assigned September 16, 1977, at St. Paul, Minn., will be held in Room 525, Federal Building, 316 N. Robert Street.

MC 140054 (Sub-No. 1), Z & S Construction Co., Inc., now assigned September 12, 1977, at Denver, Colo., will be held in Room 158, U.S. Customs House, 721 19th Street.

MC 124511 (Sub-No. 30), John F. Oliver, now being assigned November 10, 1977 (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC 119619 (Sub-No. 98), Distributors Service Co., now being assigned November 9, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC 113325 (Sub-No. 146), Slay Transportation Co., Inc., now being assigned November, 8, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC 112304 (Sub-No. 117), Ace Doran Hauling & Rigging Co., now being assigned November 7, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

AB 10 (Sub-No. 10), Wabash Railroad Co. and Norfolk & Western Railway Co. abandonment portion of Moberly Division and—abandonment of trackage rights and joint trackage—over connecting lines in the Counties of Brown, Adams, and Hancock, Ill. and the city of Keokuk, Iowa, now being assigned November 2, 1977 (3 days), at Carthage, Il. in a hearing room to be later designated.

MC 142152 (Sub-No. 1), N.A.T. Transportation, Inc., now assigned September 13, 1977, at Chicago, Ill., will be held in Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 128375 (Sub-No. 151), Crete Carrier Corp., now assigned Sepetmber 15, 1977, at Chicago, Ill., will be held in Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 142719 (Sub-No. 1), Robert J. Kirkpatrick, d.b.a. Kirk's Towing Service, now assigned September 19, 1977, at Chicago, Ill., will be held in Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 142773, Prather Auto Sales, Inc., now assigned September 21, 1977, at Chicago, Ill., will be held in Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 1422747, David L. Tate, Hamer L. Tate, Alicia L. Tate, William H. Tate, Beryl E. Tate and Gerald Ross, a partnership, d.b.a. Tate Cheese Co., now assigned September 14, 1977, at Chicago, Ill. will be held .n Court Room 1944C, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 113651 (Sub-No. 210), Indiana Refrigerated Lines, Inc., now being assigned November 1, 1977 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 135539 (Sub-No. 6), Farm Service & Supplies, Inc., now being assigned November 2, 1977 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 141693 (Sub-No. 1), Gregory Lee Jencen, d.b.a. Agrarian Way of Wisconsin and MC 141864 (Sub-No. 1), James D. Dickson, now being assigned November 3, 1977 (2 days), in Chicago, Ill., in a hearing room to be later designated.

MC 136849 (Sub-No. 1), E & H Distributing Co., contract carrier application, now assinged October 12, 1977 (2 days), at Las Vegas, Nev., in a hearing room to be later designated.

MC 108119 (Sub-No. 56), E. L. Murphy Trucking Co., now being assigned November 7, 1977 (1 day) at Chicago, Ill., in a hearing room to be later designated.

MC 720 (Sub-No. 27), Bird Trucking Co., Inc., and MC 30844 (Sub-No. 576), Kroblin Refrigerated Xpress, Inc., now being assigned November 8, 1977 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 139193 (Sub-Nos. 47, 48, and 49), Roberts & Oake, Inc., now being asigned November 9, 1977 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC-F-13154, Shaffer Trucking, Inc.—Purchase—Temco Transportation Inc., now assigned September 13, 1977, at Louisville, Ky., will be held in Room 1052A, Federal Building, Federal Plaza, 6th and Chestnut Street.

MC 134906, Cape Air Freight, Inc., now assigned September 19, 1977, at Louisville, Ky., will be held in Room 631, U.S. Post Office Building, 6th and Broadway.

MC 134906 (Sub-Nos. 1, 2, 3, 4, 5, 6, and 7), Cape Air Freight, Inc., now assigned September 19, 1977, at Louisville, Ky., will be held in Room 631, U.S. Post Office Building, 6th and Broadway.

MC 143187, R. F. DeGaetano Transportation, Inc., now being assigned November 17, 1977 (2 days), at Boston, Mass., in a hearing room to be later designated.

MC 119619 (Sub-No. 102), Distributors Service Co., now being assigned November 15, 1977 (2 days), at Boston, Mass., in a hearing room to be later designated.

MC 135425 (Sub-No. 24), Cycles Ltd., now being assigned November 14, 1977 (1 day), at Boston, Mass., in a hearing room to be later designated.

AB 83 (Sub-No. 3), Maine Central Railroad Co., abandonment between North Anson and Bingham, in Somerset County, Maine, now being assigned November 9, 1977 (3 days) at Bingham, Maine, in a hearing room to be later designated.

H. G. Homme, Jr.,
*Acting Secretary.*

[FR Doc.77-23223 Filed 8-10-77;8:45 am]

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[Notice No. 457]

## ASSIGNMENT OF HEARINGS; CORRECTION

August 8, 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.

Correction [1]

MC 133689 Sub-No. 117, Overland Express, Inc. now being assigned November 8, 1977 (1 day) at Boston, Mass., in a hearing room to be later designated.

H. G. Homme, Jr.,
*Acting Secretary.*

[FR Doc.77-23224 Filed 8-10-77;8:45 am]

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## FOURTH SECTION APPLICATION FOR RELIEF

August 8, 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 August 26, 1977.

FSA No. 43411—*Cotton to Freeport, Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-692), for interested rail carriers. Rates on cotton, in carloads, as described in the application, from points in Arkansas, Kansas, Louisiana, Missouri, Oklahoma and Texas; also Natchez, Mississippi and Memphis, Tennessee, to Freeport, Texas.

Grounds for relief—Rate relationship.

Tariff—Supplement 53 to Southwestern Freight Bureau, Agent, tariff 208-M, I.C.C. No. 5167. Rates are published to become effective on September 8, 1977.

By the Commission.

H. G. Homme, Jr.
*Acting Secretary.*

[FR Doc.77-23231 Filed 8-10-77;8:45 am]

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[Notice No. 205]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 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 September 12, 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.

No. MC-FC-77062, filed July 28, 1977. Transferee: PIEDMONT COACH LINES, INC., 3636 Glenn Avenue,

[1] This notice corrects the docket number.

Winston Salem, N.C. 27105. Transferor: Wilkes Transportation Company, Inc., 706 Cherry St., North Wilkesboro, N.C. 28659. Applicant's representative: Kyle Hayes, Attorney-at-Law, Ninth St., North Wilkesboro, N.C. 28659. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC 111960 and MC 111960 (Sub-No. 4), issued July 16, 1951 and December 11, 1969, respectively, as follows: Passengers and their baggage, in round-trip charter operations, beginning and ending at points in Wilkes County, N.C., and extending to points in South Carolina, Tennessee, Virginia, and the District of Columbia; and passengers and their baggage and express and newspapers in the same vehicle with passengers, between Winston-Salem, N.C., and Morganton, N.C., over specified routes, serving intermediate points, and between junction North Carolina Highway 67 and Forsyth County Highway 1525, and Elkin, N.C., over specified routes, serving all intermediate points. Transferee presently holds authority from this Commission under Certificate No. MC 118552 (Sub-No. 1). Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC–FC–77158, filed July 22, 1977. Transferee: T & P TRANSPORTATION OF NEW JERSEY, INC., 67 Esther St., Newark, N.J. 07105. Transferor: T & P Transportation, Inc., 67 Esther St., Newark, N.J. 07105. Applicant's representative: John R. Sims, Jr., Attorney-at-Law, 425 13th St. NW., Washington, D.C. 20004. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 123226, issued June 22, 1964, to transferor as follows: Vegetable oils, between New York, N.Y., on the one hand, and, on the other, Philadelphia, Pa., and points in New Jersey within 40 miles of City Hall, New York, N.Y. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC–FC–77198, filed July 5, 1977. TRANSFEREE: WOLVERTON DRAY LINE, INC., Foxhome, Minn., 56543. TRANSFEROR: Curtis E. Emerson, doing business as Wolverton Dray Line, Foxhome, Minn., 56543. Applicant's representative: Curtis E. Emerson, Address: Same as above. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 92950 issued May 19, 1953, as follows: General Commodities, with normal exceptions, over specified regular routes, between Fargo, N. Dak., on the one hand, and, on the other, Wolverton, Minn.; and general commodities, with normal exceptions, over irregular routes, between points within six miles of Wolverton, Minn., including Wolverton. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC–FC–77200, filed July 28, 1977. Transferee: ROBERT W. BELVILLE, (Robert W. Belville, Jr. Administrator) and Freda H. Belville, (Jose' M. Monte and Dorothy Lavin, Executors), a partnership, doing business as New York and Vermont Motor Express, Smith Street, Barre, Vt. 05641. Transferor: Barre Granite Transfer, Inc., S. Vine St., Barre, Vt., 05641. Applicant's representative: John P. Monte, Attorney-at-Law, 61 Summer St., P.O. Box 568, Barre, Vt. 05641. Authority sought for purchase by transferee of that portion of the operating rights of transferor set forth in Certificate No. MC 2032, issued April 12, 1974, as follows: Granite from Barre, Vt., and points in Vermont within 22 miles of Barre, to points in New York. Transferee presently holds authority from this Commission under Certificate No. MC 1030. Application has been filed for temporary authority under section 210a(b).

No. MC–FC–77214, filed July 11, 1977. Transferee: R. J. Renn Sons, Inc., 755 South Fifth St., Shamokin, Pa. 17872. Transferor: Ralph J. Renn, 755 South Fifth St., Shamokin Pa. 17872. Applicant's representative: Vincent B. Makowski, Attorney at Law, Pennsylvania National Bank Bldg., Shamokin, Pa. 17872. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC–65195, issued October 2, 1943, as follows: Household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, over Irregular routes, Between points and places in Northumberland County, Pa., on the one hand, and, on the other, points and places in New York, New Jersey, Ohio, and the District of Columbia, traversing Maryland for operating convenience only. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC–FC–77216 filed July 17, 1977. Transferee: H&L BLOOM, INC., 427 Cohannet St., Taunton, Mass. 02108. Transferor: Thompson Oil Co., 8 Grove St., Upton, Mass. 01568. Applicant's representatives: Frank Daniels, Esquire, 15 Court Sq., Boston, Mass. 02108; Arthur M. White, Esquire, Bikofsky, Walker, and Tuttle, 281 Pleasant St., Farmingham, Mass. 01701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 30521, issued October 7, 1974, as follows: Passengers and their baggage, over specified regular routes, between Woonsocket, R.I., and Blackstone, Mass., serving no intermediate points; passengers and their baggage, and express, and newspapers, in the same vehicle with passengers, over specified regular routes, between Woonsocket, R.I., and Blackstone, Mass., serving no intermediate points; between Woonsocket, R.I., and the Millenville District, Blackston, Mass., serving no intermediate points; between junction Massachusetts Highway 122 and Blackstone Street in Blackstone, Mass., and Lake Nipmuc Park in Mondon, Mass., serving all intermediate points except those on that portion of the route between the intersection of Main Street and Massachusetts Highway 16 and Lake Nipmuc Park; between junction Massachusetts Highway 122 and Mendon Street in Blackstone, Mass., and Millvillo, Mass., serving all intermediate points; passengers and their baggage, in the same vehicle with passengers, over specified regular routes, between Millville, Mass., and Woonsocket, R.I., serving all intermediate points. The above authority to transport passengers was issued pursuant to applications filed on or before January 1, 1967, and therefore, incidental charter operations in interstate or foreign commerce may be conducted under rules and regulations prescribed by the Commission pursuant to section 208 (c) of the Interstate Commerce Act, as amended November 10, 1966; passengers and their baggage, restricted to traffic originating in the territory indicated in the regular route stated next above, in charter operations, from points in Massachusetts and Rhode Island within 25 miles of Millville, Mass., except those on the next above-specified regular route, to points in New Hampshire, Massachusetts, Connecticut, and Rhode Island, and those in that part of Maine on and south of U.S. Highway 302, and return over the same route. Transferee presently holds no authority from his Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC–FC–77220, filed July 12, 1977. Transferee: CHARLES ROBERT PHELPS, 1180 Dicus Mill Rd. Millersville, Md. 21108. Transferor: Lloyd J. Arnett, 34 Edmondson Ridge Rd., Catonsville, (Baltimore), Md. 21228. Applicant's representative: Allan C. Westcott, Attorney at Law, One Thompson St., P.O. Box 132, Annapolis, Md. 21404. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit, No. MC 101696, issued April 26, 1950, as follows: *Such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses*, and, in connection therewith, *equipment, materials, and supplies used in the conduct of such business*, over irregular routes, between specified points in Pennsylvania, West Virginia, Maryland, Delaware, Virginia, and the District of Columbia. Also between points and places within the territory bounded by a line beginning at New Castle, Del., and extending south along the west shore of Delaware Bay and the Atlantic Ocean to Cape Charles, Va., thence north along the east shore of Chesapeake Bay to Stevensville, Md., thence across Chesapeake Bay to Annapolis, Md., thence in a northwesterly direction to Damascus, Md., thence in a southwesterly direction to the Potomac River at a point one mile south of Seneca, Md., thence along the east bank of the river to Hancock, Md., thence north to Warfordsburg, Pa.,

thence in a northeasterly direction through Mercersburg, Chambersburg, and Carlisle to Roseglen, Pa., thence east to Fredericksburg, Pa., thence south through Labanon and Manheim, Pa., to the Susquehanna River at a point five miles north of Airville, Pa., thence in a southeasterly direction along the east bank of the river to the Pennsylvania-Maryland State line, thence east and south along the Pennsylvania-Maryland-Delaware State line to a point one mile northeast of Elkton, Md., and thence east to New Castle, including the points named. Also between points and places in the next above-specified territory, on the one hand, and, on the other, Philadelphia, Pa., Wilmington, Del., Richmond, Va., and the District of Columbia. *Fruits, vegetables, farm products, poultry,* and *sea food,* in the respective seasons of their production, over irregular routes, from points and places in Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia to points and places in the next above-specified territory, with no transportation for compensation on return except as otherwise authorized. Restriction: The Transportation service specified above must be performed under individual contracts agreements, with persons (as defined in Section 203(a) of the Interstate Commerce Act) who operate retail stores, the business of which is the selling of food. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77221, filed July 15, 1977. Transferee: GEORGE HUSACK, INC., 167 Locust Dr., Schnecksville, Pa. 18078. Transferor: George Husack, 167 Locust Dr., Schnecksville, Pa. 18078. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, Pa. 17011. Authority sought to transfer all of the operating rights of transferor to transferee shown under Docket No. MC 136831 Sub-No. 1, issued November 15, 1974, and MC 136831 Sub-No. 4, issued January 19, 1977, as follows: *Lamps and lampshades,* from the plantsite of Keystone Lamp Manufacturing Corp., at or near Slatington, Pa., to points in New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Ohio, North Carolina, South Carolina, Michigan, Indiana, Illinois, Wisconsin, Texas, Florida, Alabama, Tennessee, Georgia, and the District of Columbia; and *Materials used in the production of lamps and lampshades* (except commodities in bulk, in tank vehicles) from the above-named destinations points to the plantsite of Keystone Lamp Manufacturing Corp. at or near Slatington, Pa., *coal,* in bulk, in dump vehicles, from Tamaqua, Pa., to Lakeville, Conn., with no transportation for compensation on return except as otherwise authorized. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 42604 and subs thereafter. Application has not been filed for temporary authority under section 210a (b).

No. MC-FC-77227, filed July 22, 1977. Transferee: GEORGE MICHAEL O'BRYAN, doing business as MIKE O'BRYAN, Route 1, Box 49D, Altha, Fla. 32421. Transferor: George Waldorff, doing business as Waldorff & Son, Route 1, Box 24, Altha, Fla. 32421. Applicant's representative: Sol H. Proctor, Attorney-at-Law, 1101 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC 140616 (Sub-No. 2), issued August 17, 1976, as follows: *Fertilizer,* from points in Henry County, Ala., Bainbridge, Ga., Yazoo and Pascagoula, Miss., to Altha, Fla.; and *slag,* in bulk, from Birmingham, Ala., to Altha, Fla., restricted to a transportation service to be performed under a continuing contract, or contracts, with Altha Farmers Coop of Altha, Fla. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC-FC-77228, filed July 22, 1977. Transferee: JOHN AND ARVONNE DEGENFELDER, doing business as BISHER FREIGHT SERVICE, 369 Main St., Ramona, Calif. 92065. Transferor: Bisher Truck Line, Inc., 499 Main St., Ramona, Calif. 92065. Applicant's representative: John Degenfelder, 369 Main St., Ramona, Calif. 92065. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 4363 and Certificate of Registration No. MC 4363 (Sub-No. 3), both issued by the Commission January 31, 1968, as follows: General commodities, with specified exceptions, between points in California. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC-FC-77229, filed July 21, 1977. Transferee: GERALD R. PRIEST AND HELEN M. PRIEST, doing business as G&H TRANSFER, 29 North Webster, Red Cloud, Nebr. 68970. Transferor: Leslie H. Harms, doing business as Harms Transfer, Rural Route 1, Hildreth, Nebr. 68947. Applicant's representative: Vernon F. Duncan, Attorney-at-Law, Franklin, Nebr. 68939. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate of Registration No. MC 120174 (Sub-No. 1), issued November 25, 1963, as follows: *Commodities* generally, except those requiring special equipment, between points in Nebraska. Transferee presently holds authority from this Commission under Certificate of Registration No. MC 120882 (Sub-No. 1). Application has not been filed for temporary authority under section 210a (b).

No. MC-FC-77231, filed July 25, 1977. Transferee: ALLENS MOVING SERVICE OF FAYETTEVILLE, INC., 135 "C" St., P.O. Box 192, Fayetteville, N.C. 28302. Transferor: Allen C. Draughon, doing business as Allen's Moving Service, 135 "C" St., P.O. Box 192, Fayetteville, N.C. 28302. Applicant's representative: Allen C. Draughon, P.O. Box 192, Fayetteville, N.C. 28302. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 129354, issued December 5, 1969, as follows: *Used household goods,* over irregular routes, between points in Moore, Lee, Harnett, Hoke, and Cumberland Counties, N.C. Transferee presently holds no authority from this Commission. Application has not yet been filed for temporary authority under section 210a(b).

No. MC-FC-77235, filed July 28, 1977. Transferee: SUN ENTERPRISES, INC., 717 Market St., Lemoyne, Pa. 17043. Transferor: George C. Shoff, P.O. Box 2, Beccaria, Pa. 16616. Applicant's representative: John M. Musselman, Attorney at Law, 410 North Third St., Harrisburg, Pa. 17108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 89885, issued June 27, 1966, as follows: *Passengers and their baggage,* in the same vehicle, in round-trip charter operations beginning and ending at Blandburg, Patton, Coalport, and Irvona, Pa., and extending to points in New York, New Jersey, Maryland, Ohio, 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).

H. G. Homme, Jr.
*Acting Secretary.*

[FR Doc.77-23222 Filed 8-10-77;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### NORTHWESTERN UNIVERSITY, ET AL.

### Application for Duty-Free Entry of Scientific Articles; Correction

In the Notices of Application for Duty-Free Entry of Scientific Articles appearing at pages 27274 and 27275, respectively, in the Federal Register of Friday, May 27, 1977, the following corrections should be made:

Under Northwestern University et al, Docket Number: 77-00233 and under That Man May See, Inc., et al, Docket Number: 77-00236 the description of article should read: Article: Photochron I Image Converter Streak Camera Tube with S-1 Spectral Response Photocathode.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,
*Director, Special Import Programs Division.*

[FR Doc.77-23128 Filed 8-10-77;8:45 am]

## National Oceanic and Atmospheric Administration

### COASTAL MANAGEMENT PROGRAM OF THE VIRGIN ISLANDS

#### Public Hearing on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold two public hearings for the purpose of receiving comments on the draft environmental impact statement for the Coastal Management Program of the Virgin Islands.

The first of the two scheduled public hearings will be held at the St. Thomas Sheraton, 10:00 a.m., Tuesday, August 30, 1977. The second hearing will be held at the Florence Williams Library, Christiansted, St. Croix, 10:00 a.m., Wednesday, August 31, 1977.

The views of interested persons and organizations are solicited. These may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-served basis, but may be limited to a maximum of ten minutes or as otherwise appropriate. Priority will be given to those with written statements. Time will be available at the end of the meeting for persons without statements to present their views orally. The Office of Coastal Zone Management staff may question any speaker following presentation of his/her statement. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of the remarks.

Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management as soon as possible so that an appearance schedule may be drawn up and definite times established for presentations. Please contact:

June Cradick, National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, 3300 Whitehaven Street NW, Washington, D.C. 20235, phone: 202-634-4242.

Written comments may also be submitted by mail to the Office of Coastal Zone Management. Such comments should be received before September 5, 1977 to assure adequate consideration for inclusion in the final environmental impact statement.

Copies of the draft environmental impact statement may be obtained by contacting the Office of Coastal Zone Management or:

Darlan Brin, Virgin Islands Planning Office, P.O. Box 2606 Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00801, phone: 809-774-1730.

Comments may address the adequacy of the impact statement and/or the nature of the Virgin Islands Coastal Management Program.

Following consideration of the comments received at these hearings as well as written comments submitted, the Office of Coastal Zone Management will prepare the final environmental impact statement pursuant to the National Environmental Policy Act of 1969 and implementing guidelines.

Dated: August 5, 1977.

T. P. Gleiter,
*Assistant Administrator for Administration.*

[FR Doc.77-2310 Filed 8-10-77;8:45 am]

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### PRELIMINARY FISHERY MANAGEMENT PLAN FOR PACIFIC BILLFISH AND SHARKS

#### Availability of Draft Environmental Impact Statement/Preliminary Fishery Management Plan and Notice of Public Hearing

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190) and Section 201(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), notice is hereby given of the availability of a combined Draft Environmental Impact Statement and Preliminary Fishery Management Plan (DEIS/PMP) for Pacific billfish and sharks. Foreign nations may be expected to apply for permits to take billfish and sharks within the Fishery Conservation Zone, but a Regional Fishery Management Council fishery management plan will not be implemented in the time frame necessary to govern such foreign fishing.

Copies of the DEIS/PMP have been distributed to a large number of agencies, organizations, and individuals, including fishery management agencies in California, Oregon, Washington, Hawaii, Guam, and American Samoa. Copies are also available from the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731; and from the Administrator, Western Pacific Program Office, Southwest Region, National Marine Fisheries Service, Post Office Box 3830, Honolulu, Hawaii 96812.

Notice is hereby given also of public hearings to be held by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, to receive public views and comments on the DEIS/PMP. These hearings will be held at the following locations and times:

August 30, 1977—Agana, Guam

Territorial Congress Building,
9:00 a.m.

August 30, 1977—Terminal Island, California

Conference Room,
U.S. Customs Building,
300 South Ferry Street,
7:00 p.m.

September 7, 1977—Honolulu, Hawaii

Rooms 310-12,
Hawaii State Capitol Building,
9:00 a.m.

September 10, 1077—Kailua-Kona, Hawaii

Kamakahonu Ballroom,
King Kamehameha Hotel,
8:30 p.m.

Written comments on the DEIS/PMP from interested members of the public may be submitted not later than September 26, 1977, to the Regional Director or to the Administrator of the Western Pacific Program Office at the address given above.

Dated: August 5, 1977.

Winfred H. Meibohm,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-23122 Filed 8-10-77;8:45 am]

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## Office of the Secretary

### NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE (NACOA)

#### Re-establishment

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 Revised, notice is hereby given of the re-establishment of NACOA pursuant to the National Advisory Committee on Oceans and Atmosphere Act of 1977 (Pub. L. 95-23). NACOA was initially established on August 16, 1971 by Pub. L. 92-125 to advise the President and the Congress on marine and atmospheric affairs.

NACOA will undertake a continuing review of national ocean policy, coastal zone management and the status of the marine and atmospheric science and service programs of the U.S., advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration, and submit an annual report to the President and the Congress setting forth an assessment of the status of the Nation's marine and atmospheric activities, and such other reports as may be requested by the President or the Congress.

The Committee will consist of 18 Presidentially appointed members, eminently qualified in one or more of the disciplines and fields included in atmospheric or marine science, marine-related or atmospheric-related state and local governmental functions, coastal zone management, as well as other fields directly appropriate for consideration of matters of atmospheric or ocean policy.

The Committee will function solely as an advisory committee, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter has been filed with the concerned Congressional committees and the Director, Office of Management and Budget in accordance with the law.

Dated: August 4, 1977.

Elsa A. Porter,
*Assistant Secretary for Administration.*

[FR Doc.77-23216 Filed 8-10-77;8:45 am]

## CONSUMER PRODUCT SAFETY COMMISSION

[CP 77-131]

### MATCHBOOKS

#### Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: In this document the Commission denies a petition to revoke its consumer product safety standard for matchbooks because the Commission believes that the standard effectively addresses an unreasonable risk of injury associated with matchbooks and that it is justified by the available economic information.

FOR FURTHER INFORMATION CONTACT:

George Anikis, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6453.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.S. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

The Commission began the development of a safety standard for matchbooks, under section 7 of the Consumer Product Safety Act, by a notice of proceeding published in the FEDERAL REGISTER on September 4, 1974 (39 FR 32050). The Commission published a proposed standard for public comment on April 1, 1976 (41 FR 14112).

On April 25, 1977 the Commission received a petition from D. D. Bean and Sons, Co., a matchbook manufacturer. The petition requested the Commission to withdraw the matchbook notice of proceeding before issuing a final standard. At that time, the Commission had received extensive briefing materials from the staff and had a draft final standard before it for consideration. It was too late for the Commission to consider the petition before it approved the final standard on April 26 (all discussions and some preliminary votes concerning the final standard had occurred earlier). The Commission therefore considered the petition as a petition to revoke the matchbook standard which was published in the FEDERAL REGISTER on May 4, 1977 (42 FR 22656), with an effective date of May 4, 1978.

The petition questioned the existence of an unreasonable risk of injury associated with matchbooks and it questioned the effectiveness of the provisions of the Commission's standard in addressing the stated risks of injury. In addition, the petition claimed that the regulation would have a considerable economic impact on the industry.

The Commission's final matchbook standard includes findings on the risk of injury associated with matchbooks (§ 1202.2(a), 42 FR 22667) and on the anticipated economic impact of the standard (§§ 1202.2 (c) and (d), 42 FR 22668). The preamble to the standard also discusses these points in some detail (42 FR 22657-59 and 22666).

The Commission has found, in issuing the standard, that unreasonable risks of injury associated with matchbooks include eye injuries caused by bookmatches that fragment and burn injuries caused by bookmatches that have delayed ignition, that ignite unexpectedly, that ignite the remaining matches in a matchbook, that exhibit afterglow, and that are improperly used (§ 1202.2(a)). The Commission believes that the matchbook standard addresses these risks.

In addition, the Commission has estimated that manufacturing cost increases as a direct or indirect effect of the standard will be modest for the matchbook industry as a whole (§ 1202.2(c)(3)). After considering alternative means of achieving the objective of the standard and many other factors, the Commission has found that the matchbook standard is reasonably necessary to eliminate or reduce the unreasonable risks of injury associated with matchbooks (§§ 1202.2 (d) and (e)).

Nothing in the Bean petition has persuaded the Commission that its findings were inaccurate. In fact, many of the arguments made by Bean were similar to those made in the public comments and considered by the Commission before it issued the final matchbook standard. Accordingly, the Commission has decided not to revoke its matchbook standard and the petition is denied.

Copies of the petition and the staff's briefing materials to the Commission on the petition may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Third floor, Washington, D.C. 20207.

Dated: August 8, 1977.

RICHARD E. RAPPS,
*Secretary, Consumer Product Safety Commission.*

[FR Doc.77-23248 Filed 8-10-77;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### NEPA, EIS REFORM

#### Notice of Request for Views

BACKGROUND

The President has stated his strong support for the effective implementation of the National Environmental Policy Act of 1969 (NEPA) and for efforts by each agency to make environmental impact statements more useful to decisionmakers and to the public. The Council is currently preparing to issue regulations to all Federal agencies to accomplish these goals.

The Council held three days of public hearings in June to consider suggestions from the various national interests who are concerned about the effectiveness of the Act, including private citizens, state and local governments, business, industry, labor, environmentalists, and the scholarly community. Fifty witnesses appeared before the Council. Hundreds more submitted written testimony. Representatives from 50 Federal agencies attended the hearings.

REQUESTS FOR VIEWS

The Council has prepared a detailed questionnaire, based on the hearing record, indicating the problem areas and potential solutions which the public identified at the hearings. This set of questions has been distributed to all the participants in the hearings and to all Federal agencies. The Council will draft its regulations on the basis of the responses to the questionnaire. Anyone interested in making views known to the Council may request a "NEPA Hearing Questionnaire" from the Council. The request may be made by telephone 202-633-7032 or in writing: Nick Yost, Acting General Counsel, CEQ, 722 Jackson Place NW., Washington, D.C. 20006.

DEADLINE

Responses to the questionnaire are due before August 31, 1977.

Thank you for your help.

NICHOLAS C. YOST,
*Acting General Counsel.*

[FR Doc.77-23361 Filed 8-10-77;8:45 am]

## TSCA/INTERAGENCY TESTING COMMITTEE

#### Availability of Document

The purpose of this Notice is to announce the availability of the document, "Preliminary List of Chemical Substances for Further Evaluation", dated July 1977, and the Background Document. Anyone wishing to receive a copy should write or telephone:

Mrs. Phyllis D. Tucker, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, telephone 202-633-7074.

Comments on the report which had originally been requested by August 8, 1977, have been extended to August 22, 1977. The comments should be in triplicate and mailed to the above address. Copies of all comments received will be available for public inspection from 8 a.m. to 4:30 p.m. at the Environmental Protection Agency library, Room 2902, 401 M Street SW. The Master File and the list of other chemicals or categories considered by the Committee will also be available for inspection at the EPA library.

Dated: July 9, 1977.

WARREN R. MUIR,
*Chairman, TSCA/ITC.*

Certified to be a true copy of the original document.

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 775-6]

### AIR QUALITY STANDARDS

### Petition for Review of Photochemical Oxidant Criteria, Standard and Control Program

On December 9, 1976, the American Petroleum Institute and 29 member companies petitioned the Administrator of the Environmental Protection Agency to review and revise the Agency's air quality criteria, standard and control program for photochemical oxidants. This notice publishes the decision of the Administrator on the petition.

Dated: August 5, 1977.

ERIC O. STORK,
*Acting Assistant Administrator for Air and Waste Management.*

ADMINISTRATOR'S RESPONSE TO PETITION OF THE AMERICAN PETROLEUM INSTITUTE

I. THE RELIEF REQUESTED BY THE API PETITION

On December 9, 1976, the American Petroleum Institute and member companies ("API") submitted a petition to the Environmental Protection Agency ("EPA") seeking various forms of action with regard to the control of photochemical oxidants. On the same day, Mr. Frank N. Ikard, President of API, submitted a cover letter stating API's requests (although with some differences from the requests in the petition).

API made six specific requests in its petition:

(1) Revise the air quality criteria for photochemical oxidants pursuant to Section 108 (c) of the Clean Air Act within six months of the filing of this Petition in light of the new information regarding the causes, effects and extent of ozone and oxidants detailed in this Petition;

(2) Establish a national primary ambient air quality standard as required by Section 109(b)(1) of the Clean Air Act based on new studies described in this Petition demonstrating no significant adverse human health effects at or below ozone levels of 0.25 parts per million (ppm) for two-hour exposures;

(3) Establish a national secondary ambient air quality standard as required by Section 109(b)(2) of the Clean Air Act based on adverse effects on public welfare indicated by studies using ozone-specific measurement methods, taking account of the full range of economic and social considerations which define the "public welfare" under Section 302 (h) of the Clean Air Act;

(4) State the new primary and secondary standards so as to permit reliable assessments of compliance by existing monitoring networks;

(5) Specify the exclusive use of an appropriate measurement method such as ethylene chemiluminescence calibrated by either gas phase titration or ultraviolent photometry for the montoring of ozone in the ambient air; and

(6) Revise the "Requirements for Preparation, Adoption, and Submittal of Implementation Plans," and: (i) Delete the assumption of "no background concentration of photochemical oxidants"; (ii) specify more reliable, alternative oxidant prediction relationships to replace the Appendix J and similar rollback techniques for determining the degree of necessary precursor emission reductions; and (iii) include such other modifications as are indicated by the new criteria and primary and secondary standards.

Petition at 1. The requests are stated differently on page 109 of the Petition, and differently again in the December 9, 1976, letter from Mr. Ikard. It is not clear whether any practical differences were intended.

II. RESPONSE TO API PETITION.

A. *Summary of relief granted, denied or deferred.* On January 19, 1977, then-Assistant Administrator Roger Strelow replied to Mr. Ikard. This reply was published in the FEDERAL REGISTER on February 15, 1977 (42 FR 9202). Additional letters have been received from API by various persons within EPA on February 25, March 9, March 16, March 25, April 11, June 1, June 8 and June 13, 1977. In February 1977, in response to a request from attorneys for API, attorneys from EPA indicated that an additional response would be issued by EPA. This document constitutes that additional response.

The first five of API's requests relate to the national ambient air quality standards. However, the sixth request relates to the approval, disapproval, or promulgation of state implementation plans (SIPs) for the purpose of achieving such ambient standards. These should be treated as two different categories of requests. In each of these two categories, I find that there has been insufficient time to determine what actions may or may not ultimately be proper. Accordingly, on all requests I defer decision for the present.[1]

In addition to the specific relief requested, API has sought to have EPA follow certain procedures in considering the data submitted by API. I am in agreement with some of API's suggestions, but find other suggestions not to be appropriate.

B. *API's suggestions for procedures.* The API Petition asks that EPA "grant the Petition forthwith" and "initiate proceedings" for revision of the present criteria, standard and control program for photochemical oxidants. Petition at 108. Furthermore, it states that "upon granting API's Petition," EPA should publish an advance notice of proposed rulemaking announcing EPA's intention to revise the criteria and to propose new ambient standards, and should do so by June 1977. Id. at 109. Finally, it asks for a public comment period. Id.

1. *Request to "Grant" Petition before Final Action.* As a preliminary matter, API's use of the term "grant the Petition" may lead to some confusion. API has cited Oljato Chapter of the *Navajo Tribe* v. *Train*, 515 F. 2d 654 (D.C. Cir. 1975), as the guidance under which this petition was filed. In that opinion, the Court stated that the Agency's denial of a petition to review a regulation on the basis of new information would be reviewable in that Court, under section 307(b) of the Clean Air Act, 42 U.S.C. 1857h-5(b). "Oljato" did not deal with the specifics of "granting" petitions, however (and did not even use that word).

It seems clear that an agency would rarely fully "grant" a petition immediately, since most rulemaking requires proposal and public participation, both of which take time and imply an openminded attitude on the part of the Agency toward changes in the proposal. Thus, when asked to respond promptly to a petitioner so that he may know whether he should proceed to court, an agency must often defer decision pending study, proposal, public comment, advisory board review, or whatever other procedural steps may be required. Full granting of a petition such as API's, which calls for revisions, may only be accomplished by final rulemaking.

2. *Request for "Advance Notice of Proposed Rulemaking."* The petition asks that EPA "publish an advance notice of proposed rulemaking in the FEDERAL REGISTER announcing EPA's intention to revise the photochemical oxidant criteria and to propose primary and secondary ambient air quality standards in accordance with the requirements of the Act." Petition at 109. This procedure would be inappropriate for two reasons. First, any revision of the criteria document under section 108 of the Act does not constitute rulemaking and therefore an advance notice of proposed rulemaking (ANPR) cannot be issued. Second, it would be incorrect for EPA to announce that it intended to revise the national ambient air quality standards (NAAQS) for photochemical oxidants based on revised criteria since that is not EPA's intent at the present time. Although the decision has been made to revise and update the air quality criteria document, I cannot state that the NAAQS will be proposed to be revised. This can be done only if it becomes clear that the revised criteria, on which the standards must be based, make it appropriate to consider amendment of the standards.

It is EPA's intention to encourage maximum possible public participation in its review of the air quality criteria documents. Such participation began with the February 15 FEDERAL REGISTER Notice. On April 20, 1977 (42 FR 20493), EPA published a call for information and data on the health and welfare criteria for photochemical oxidants and hydrocarbons and invited public involvement. That notice stated that a draft of the revised criteria document would be made available for public review in July 1977. It appears now that such a draft will be available in late August 1977. The Science Advisory Board will review the document and develop its evaluation at a meeting to be held as soon as practicable after August. We contemplate publishing the revised document in February, 1978, along with any proposed revisions to the standard which may be indicated.

3. *Six month deadline.* API initially sought to impose a deadline of six months from the date of its petition for publication of revised criteria and proposal of revised NAAQS. Petition at 109. However, subsequent to the submission of the petition, API began to submit additional materials and arguments relevant to one or another of its requests, including letters dated March 9, April 11, June 1, and June 8. Indeed, the June 1 letter pointed out that certain of API's health effects studies were still being reviewed by API and its member companies and would be submitted to EPA in early July "for consideration by EPA in its revision of the air quality criteria and standards for photochemical oxidants and hydrocarbons." Letter from A. G. Everett to Gordon Hueter, June 1, 1977, at 2. It appears, therefore, that API itself has decided that publication of revised criteria within six months of its December 9 petition is not feasible. In any case, EPA has concluded that publication of revised criteria cannot occur before February 1978, because of the volume of material that must be considered and the fact that the same staff is working on the new criteria for environmental lead, which EPA is preparing pursuant to court order.

4. *Written comments.* Finally, API has requested that any final revisions to the NAAQS be preceded by "a reasonable time for interested persons to submit written comments" regarding proposed revisions. Petition at 110. If EPA decides, on the basis of

[1] In one instance, the relief sought is susceptible of two interpretations. As to that matter I also defer decision, but deny relief in the alternative. See note 2, infra.

revised criteria, to propose revisions to the NAAQS, it will certainly provide such an opportunity for comment.

C. *Request to revise air quality standards.* The first five of API's requests (*see* Petition at 1) relate in one manner or another to the national ambient air quality standard for photochemical oxidants. On each of these I defer decision. In order to put the requests and my response in context, a brief summary of the Clean Air Act and the current standards is in order.

1. *The structure of the Act.* The Administrator of EPA is required by section 109 of the Clean Air Act, 42 U.S.C. 1857c-4, to publish national ambient air quality standards for pollutants which adversely affect the public health and welfare. The list of these pollutants originally included five substances for which air quality criteria had previously been developed by the National Air Pollution Control Administration, Public Health Service, and may be expanded by the Administrator of EPA. Section 108(a)(1), 42 U.S.C. 1857c-3(a)(1).

For each listed pollutant, air quality criteria are to be developed which "accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities." Section 108(a)(2), 42 U.S.C. 1857c-3(a)(2).

It is these criteria upon which the Administrator is required to base the national ambient air quality standards ("NAAQS"). The primary NAAQS is required to be set at a level the attainment and maintenance of which, in the Administrator's judgment, based upon the air quality criteria and allowing for an adequate margin of safety, are requisite to protect the public health. Section 109(b)(1), 42 U.S.C. 1857c-4(b)(1). The secondary NAAQS are to specify a level the attainment and maintenance of which, in the Administrator's judgment, based upon the air quality criteria, are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Section 109(b)(2), 42 U.S.C. 1857c-4(b)(2).

The air quality criteria are to be periodically reviewed by the Administrator, and updated, modified or reissued, as appropriate. Section 108(c), 42 U.S.C. 1857c-3(c). Similarly, both the primary and secondary NAAQS may be revised in the same manner as promulgated. Section 109(b)(1), (2), 42 U.S.C. 1857c-4(b)(1), (2).

2. *Current standards.* In the case of photochemical oxidants, standards were proposed on January 30, 1971 and promulgated on April 30, 1971 (40 CFR 50.9). The joint primary and secondary standards are 0.08 parts per million or 160 micrograms per cubic meter, maximum one-hour concentration not to be exceeded more than once per year. The criteria document upon which they were based, as provided in the Act, section 109(a)(1), 42 U.S.C. 1857c-4(a)(1), was published in 1970 by the National Air Pollution Control Administration, U.S. Public Health Service, "Air Quality Criteria for Photochemical Oxidants" (1970).

3. *EPA response to API's requests.* On the first of API's five request (relating to revision of the criteria document) I must defer decision because, as stated previously, EPA's review of the health information relevant to the criteria is underway and revised criteria are not expected until February 1978. On the second[2] and third requests (relating to revision of the air quality standards) I defer decision, because, as stated previously, any decision on whether to propose changes in the standards themselves due to different views on health matters must await the revised criteria. On the fourth and fifth of the requests (relating to "assessments of compliance" by the use of a statistical rather than numerical standard and to the specification of particular measurement methods such as chemiluminescence) I also defer decision. These fourth and fifth requests could be viewed either as separate requests for revision of the present NAAQS or as pendant requests relevant to the revised NAAQS which API would like EPA to propose on health grounds. The context of their discussion in the petition suggests the latter, but in either case it would not be possible for me to grant or deny the requests without thorough investigation of the suggestions, which EPA has begun.

D. *Request to revise "control program" for photochemical oxidants.* In addition to asking for various actions with regard to the air quality standards, the API petition asks for certain revisions in 40 CFR Part 51, which sets out guidance to states for their control programs for photochemical oxidants. This is, and must be, an entirely separate matter from any consideration of the proper level of the air quality standards. Indeed, for maximum clarity I have decided that API's sixth request should be treated as a separate petition.

The API petition asks for three specific "revisions" in EPA's control program for photochemical oxidants. First, it asks for deletion of the assumption in 40 CFR 51.14(c)(4) of "no background concentration of photochemical oxidants." Second, it asks for EPA to "specify" oxidant prediction relationships to "replace" Appendix J of 40 CFR Part 51. Third, it asks generally that EPA "include such other modifications as are indicated by the new criteria and primary and secondary standards." Again, a review of the Act and EPA's regulatory structure will provide useful background.

1. *The Structure of the Act.* One a standard is set under section 109, its attainment and maintenance are to be accomplished by the state implementation plans under section 110 of the Act, 42 U.S.C. 1857c-5. Pursuant to section 110, strategies and control regulations are developed by EPA and the states which will be aimed at reducing the emissions of these criteria pollutants at their source.

2. *Current EPA Program.* EPA has published general guidance to state in 40 CFR Part 51. In addition, a great deal of guidance has been provided less formally. See, e.g., 42 FR 35314 (July 8, 1977). When a state regulation is approved and becomes a part of Federal law, enforceable against an emission source, that action is taken by incorporating it in 40 CFR Part 52. If EPA finds it necessary to promulgate a regulation applicable to a source, that also is done in Part 52.

3. *EPA response to API's requests.* It is obvious that the third of API's requests (that EPA make "indicated" modifications in Part 51 after revising the air quality standards) is wholly non-specific and is supported by no further discussion in the petition. Furthermore, it obviously would have to wait for a revision, if any, in the ambient standards. I therefore cannot treat it as a formal request. However, the first and second requests can be discussed at this point.

On the first request (that § 51.14 be amended), I will defer decision, because this is a topic that is under study at EPA and our work is not yet complete. It should be noted, however, that compliance with API's request would result in more, not less, control of man-made hydrocarbons being required to attain the ambient standards for photochemical oxidants. For example, if overall (background plus man-made) levels of oxidants in an urban area are 0.16 ppm, then in order to get overall levels down to the national standard of 0.08 ppm it will be necessary to reduce total emissions by approximately 50 percent (using linear rollback for the purpose of this example). If all of the emissions are assumed to be man-made, the required reduction in man-made emissions is obviously 50 percent. But if background levels are found to be 0.04 ppm, then man-made emissions must account for 0.12 ppm. Since natural levels cannot be reduced, the man-made emissions would have to be reduced by 67 percent (representing a reduction from 0.12 ppm to 0.04 ppm) in order for the total of background plus man-made to equal the ambient standard of 0.08 ppm.

On the second request (that Appendix J to Part 51 be replaced), I also defer *decision* because work has been underway within EPA for some time to identify appropriate alternatives to Appendix J. The information submitted by API will be thoroughly evaluated.

Although I appreciate API's contribution and suggestions on these two matters, I do not interpret the law to allow these two requests to be considered a proper petition under "Oljato." Questions about the amount of reductions needed (on which § 51.14 has some bearing) must be raised in the context of a particular Part 52 state implementation

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NAAQS be established based on studies regarding "significant adverse human health effects." Petition at 1. Furthermore, discussion of health effects occupies much of the space in the petition (see Petition at 45-61). However, there is also a great deal of discussion of the "attainability" of the NAAQS for photochemical oxidants (Petition at 20-30) and the phenomenon of naturally occurring ozone (Petition at 31-45). It is not clear whether API has presented its views on attainability and natural formation of ozone simply to convince the Agency of the desirability of separate primary and secondary oxidant standards or whether API desires EPA to consider such factors in setting the level of the primary standard. The first interpretation finds support on page 21 of the petition, where even the discussion of "unattainability" seems to concede that the primary standard must be based entirely on adverse health effects and a margin of safety. If, however, the second interpretation is correct and API is asking me to consider issues such as attainability in setting the standard, I must deny the request. Nothing could be clearer than the desire of Congress to separate the question of the level at which public health would be protected from the question of attaining that level. Of course, the air quality standards which could be set under the Air Quality Act of 1967 had to be consistent not only with the air quality criteria but also with the recommended control techniques. Section 108(c)(2), Pub. L. No. 90-148, 81 Stat. 485 (1967). However, by 1970 thinking had evolved to the point that ambient standards should be set solely on the basis of health effects and that any problems of attainment should be addressed, if at all, only in establishing the timetables for action to reach the ambient standards. *See* H.R. Rep. No. 91-1146, 91st Cong., 2d Sess. 23 (1970); Hearings on S. 3229, S. 3466, and S. 3546 Before the Subcommittee on Air and Water Pollution of the Senate Committee on Public Works, 91st Cong., 2d Sess. 2 (1970); 116 Cong. Rec. 32901-02 (1970); 115 Cong. Rec. 33099 (1970); Conference Report, H.R. Rep. No. 91-1783, 91st Cong., 2d Sess. 5, 44 (1970).

[2] The API petition is confusing in one significant respect. The second type of relief for which it asks is that a revised primary

plan approval, disapproval, or promulgation. This was done by some of API's member companies in "Texas v. EPA," 499 F.2d 289 (5th Cir. 1974) (where the court upheld EPA's methodology). Similarly, challenges to the amount of pollution reduction needed (on which Appendix J has some bearing) have been raised in Part 52 SIP proceedings, including the "Texas" case. I do not believe there would be any jurisdiction or standing to challenge Appendix J or other rollback techniques outside the context of a specific Part 52 requirement to which a member company would be subject. Therefore, I suggest that API's requests be amended to specify the Part 52 regulations they wish to challenge.

Of course, in many areas of the country all current hydrocarbon regulations would be needed even with drastic amendments to § 51.14 and Appendix J because EPA has not yet promulgated regulations sufficient to attain the oxidant standards. See *e.g.*, Part 52 generally and 41 FR 45565 (October 15, 1976).

III. RECORD

For those matters on which I have defered decision, it is not yet appropriate to define the record. The record of my final action will include the information developed by EPA through its own studies and the public rulemaking process. To the extent that this response denies the relief which API has sought, the record of my decision on API's petition is the petition itself, along with the eleven volumes of supporting information, the FEDERAL REGISTER notices of February 15, 1977 (42 F.R. 2202), and April 20, 1977 (42 F.R. 20403) and all the correspondence between API or its counsel and EPA officials between December 9, 1976 and June 13, 1977.

IV. CONCLUSION

It is important to stress that reevaluation of existing data provides no ground for delaying implementation of, and compliance with, regulations to control hydrocarbons. There is as much likelihood that the reevaluation could lead to more stringent or the same ambient standards as that it could lead to more lenient ones. Nothing in the legislative history of the Clean Air Act or in a common sense analysis of the goals of pollution control suggests that emitters of pollutants should achieve delays simply because the government exercises its continuing responsibility of updating the data upon which standards are based.

I am confident that the level of effort and the time EPA is devoting to the review of the criteria and, if appropriate, the standards for photochemical oxidants will prove to be in the interest of all members of the public.

Dated: July 22, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

[FR Doc.77-23113 Filed 8-10-77;8:45 am]

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[FRL 775-8]

## JOINT CALIFORNIA-NEVADA MARINE SANITATION DEVICE STANDARD

### Receipt of Petition

Notice is hereby given that a petition has been received jointly from the States of California and Nevada requesting a determination by the Administrator, Environmental Protection Agency, pursuant to Section 312(f)(3) of Pub. L. 92-500, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Lake Tahoe, which forms a part of each State.

The State of California certifies that four pumpout facilities are available to service vessels in the California waters of Lake Tahoe. These are the Tahoe Boatworks, in Tahoe City, which serves approximately 50 boats per summer, and takes four to five minutes to pump out sewage from the average boat; Sunnyside Resort, in Tahoe City, which serves approximately 60 boats per summer, and takes five minutes to pump out the average boat; Obexer's Resort, in Homewood, which serves 8 to 10 boats per summer, and takes two to three minutes to pump out the average boat; and the Tahoe Keys Marina, in South Lake Tahoe, which serves 30 to 40 boats per summer, and takes five minutes to pump out the average boat. The first three pumpout facilities discharge their wastes to the municipal sewerage system of the Tahoe City Public Utility District; the last facility discharges its wastes to the municipal sewerage system of the South Lake Tahoe Public Utility District.

The State of California certifies that sewage from both the Tahoe City and South Lake Tahoe Public Utility Districts receive the equivalent of at least secondary treatment. The petition states that both Tahoe Boatworks and Sunnyside Resort are open from 8 a.m. to 5 p.m. during the summer, and various hours during the winter; Obexer's Resort and Tahoe Keys Marina are open from 8 a.m. to 6 p.m. during the summer, and closed during the winter. All of the listed marines can pump sewage from the largest recreational vessel that can be launched on Lake Tahoe at a public facility.

The State of Nevada certifies that one sewage pumpout facility is available to service vessels on the Nevada side of Lake Tahoe. This is a State owned and operated facility at Sand Harbor that is available for use 24 hours a day, 365 days a year. The petition states that there has been no overcrowding at the Sand Harbor facility and that pumpout time varies between one and ten minutes. The pumpout facility is located immediately adjacent to the boat launching and recovery ramp and, during maximum lake elevation, the deepest draft vessels operating on Lake Tahoe can use the pumpout facility.

The State of Nevada further certifies that sewage collected at Sand Harbor is discharged into a 1500-gallon holding tank; the wastes from the holding tank are transported by truck to an approved sanitary landfill in Carson City.

Comments and views regarding this request for action may be filed on or before September 26, 1977. Such communications, or requests for a copy of the applicants' petition, should be addressed to the Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, OWHM, Room 2824, Waterside Mall, Washington, D.C. 20460.

Dated: August 1, 1977.

THOMAS C. JORLING,
*Assistant Administrator, for Water and Hazardous Materials.*

[FR Doc.77-23114 Filed 8-10-77;8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-376]

## INTERNATIONAL AND SATELLITE RADIO

### Applications Accepted for Filing

AUGUST 8, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

SATELLITE COMMUNICATIONS SERVICES

Correction Report No. I-372 dated August 1, 1977 should have been assigned No. I-374.

Report No. I-370 dated July 25, 1977 557-DSE-P-77. The State Board of Regents of Florida, a public corporation of the State of Florida acting for and in behalf of the University of South Florida, Tampa, Florida the coordinates should have read. Lat. 28°03' 42" N. Long. 82°24'43" W.

Report No. I-370 dated 7-25-77 RCA AMERICAN COMMUNICATIONS, INC. Johnson, Texas. A clarification of the proposed frequency band is in order and 5925-6029 MHz emission 36000F9, 15000F9 and 5000F9. 6121-2137 MHz. 16000F9Y, 300F9Y and 200F9Y. 6168-6375 Mhz. 200F9Y, 100F9Y, 100F9Y, 60F9Y, 60F9Y, 1600F9Y & 300F9Y.

278-CSGR-77 Communications Satellite Corporation (KA25), Paumalu, HI Renewal of license for this fixed earth station to: 8-30-80.

279-CSG-R-77 Communications Satellite Corporation (WA22), Andover, ME Renewal of license for this fixed earth station to: 8-30-80.

591-DSE-ML-77 Teleprompter Corporation, (KB72), El Paso, TX. Modification of license to delete Paragraph 6.D of the license to permit the licensee to provide programming on a cost-sharing basis with the Franklin Cablevision Corporation.

SATELLITE COMMUNICATION SERVICES

588-DSE-P/L-77 Columbus TV Cable Corporation, Columbus, MS. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location, Lat. 33°33'02" Long. 88°20'00". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

589-DSE-P/L-77 Telecable Associates, Inc., New Iberia, LA. For authority to construct,

own and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°01'50" Long. 91°48'48". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

590–DSE–P–77 Cablevision, Inc., Ludington, MI. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 43°58'54" Long. 86°27'18". Rec. freq: 3700–4200 MHz. Emission None listed. With a 5 meter antenna.

[FR Doc.77-23192 Filed 8-10-77;8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

### Week of June 6 Through June 10, 1977

Notice is hereby given that during the week of June 6 through June 10, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

*American Can Co.; Washington, D.C.; FEX–0162; Reporting Requirements*

The American Can Company (ACC) filed an Appeal from an FEA Notice published in the FEDERAL REGISTER on December 16, 1976 (FR 54977) which identified ACC, a corporation that consumed at least 1 trillion BTUs of energy in manufacturing chemical and allied products (SIC Code 28) during 1975, as being among the 50 most energy-consumptive firms in that industry. As a result of that Notice, ACC is required to participate in a reporting program under the provisions of Section 375 of the Energy Policy and Conservation Act (EPCA). In considering the Appeal, the FEA found that ACC had included in the figure for total energy consumption in SIC Code 28 during 1975 which it reported to the FEA, the total amount of energy consumed by the Chemplex Company (Chemplex), a joint venture which it operates in conjunction with Getty Oil Company. Since the FEA Office of Conservation had not made a specific determination as to whether ACC should properly include Chemplex's energy consumption in its 1975 energy consumption figure, the matter was remanded to that Office for a formal determination of that issue. ACC's Appeal proceeding was held open pending the determination by the Office of Conservation.

*B&D Oil Co., Inc., Iron Range Propane Co., Inc.; Hibbing, Minn.; FRA–1091; Propane*

B&D Oil Company, Inc. (B&D) and Iron Range Propane Company, Inc. (Iron Range) appealed from a Remedial Order which the Regional Administrator of FEA Region V issued to them on December 1, 1976. The Remedial Order found that the sole owner of B&D and the sole owner of Iron Range were married on December 27, 1974 and that as a result B&D and Iron Range have constituted a single firm since that date. The Remedial Order was therefore issued to the two companies on a joint basis. The FEA also found that during the period November 1, 1973 through December 26, 1974 B&D sold propane to Honeywell, Inc. (Honeywell) and Iron Range at prices which exceeded maximum lawful levels. Accordingly, B&D was directed to refund the excess revenues which it had received and further directed that Iron Range pass through its portion of the refunds to its customers. In considering the B&D and Iron Range Appeal, the FEA determined that the Remedial Order did not hold Iron Range liable for any part of the overcharges levied by B&D but merely required Iron Range to pass through any refunds received from B&D. The FEA found that the definition of the term "firm" set forth at 10 CFR 212.31 permits the FEA to elect to treat B&D and Iron Range as a single firm since the date of the marriage of their respective owners. Accordingly, the claim that the Order was erroneously issued to both firms was rejected. The FEA also rejected B&D's contention that its sales of propane to Honeywell and Iron Range represented the "first sale" of a product into U.S. commerce and were exempt from price controls under the provisions of 10 CFR 212.53(b). The FEA determined that the "first sale into U.S. commerce" occurred when B&D purchased propane in Canada for importation into the U.S. and that B&D's subsequent resales of the propane in the U.S. were therefore subject to the Price Regulations. In considering B&D's claim that the Remedial Order failed to recognize that its sales to Honeywell were unusual and made on an emergency basis which entailed extraordinarily high costs for B&D, the FEA noted that the price regulations applicable to resellers and retailers did not contain any provision for "emergency" sales or for extraordinary expenses which a seller might incur in connection with a particular sale. This claim was therefore rejected. Finally, the FEA determined that during the course of the compliance proceeding which led to the issuance of the Remedial Order B&D had been furnished with sufficient information regarding the FEA's computation of the overcharges to enable the firm to formulate a meaningful response on Appeal to the charges on which the Remedial Order was based. On the basis of the foregoing considerations, the FEA denied the B&D and Iron Range Appeal.

*Beacon Oil Co.; Hanford, Calif.; FXA–1073; Crude Oil*

Beacon Oil Company (Beacon) filed an Appeal from a Decision and Order issued to the firm on November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). In the November 5 Decision, the FEA determined on the basis of the financial and operating data which Beacon submitted that the firm had received an excess measure of exception relief from its obligations under the Entitlements Program in 1975. Accordingly, Beacon was required to purchase entitlements valued at $2,071,628 during the period November 1976 through October 1977 in order to offset the excess benefits which the firm had received. The Appeal, if granted, would have resulted in the rescission of the November 5 Decision. In considering the Beacon Appeal, the FEA rejected the firm's contention that the November 5 Order should be stayed until the effect of FEA Price audits on the firm's profitability during 1975 could be ascertained. The FEA also determined that it would be inappropriate to reduce Beacon's entitlement obligation to reflect the reduction in its 1975 profitability which the firm claimed it would experience as a result of a requirement that it purchase additional entitlements to account for previous reporting errors. In its Appeal, Beacon also contended that certain adjustments should be made to its financial statements which are used to calculate the firm's historical profit margain for purposes of determining whether to grant the firm exception relief from its obligations under the Entitlements Program. In considering this claim, the FEA pointed out that almost any firm could claim that certain items on its financial statements were unusual and unrepresentative of its normal operations. Since Beacon had failed to show that it satisfied the criteria specified in previous Decisions for making adjustments to financial statements, this portion of Beacon's Appeal was denied. The FEA also rejected Beacon's claim that the Office of Exceptions and Appeals had failed to protect its rights to due process of law during the course of the Appeal proceeding. Finally, Beacon claimed that in order to provide the firm with the full six month exemption from entitlements purchases afforded by Special Rule No. 6, the firm's operating results for the months of October through December 1975 should be excluded from the FEA's review of the exception relief granted to Beacon during 1975. In rejecting this argument with respect to the months of October and November, the FEA pointed out that Beacon and other small refiners were exempt from purchase requirements which would have otherwise been specified in Entitlement Notices for the six month period from December 1975 through May 1976. The FEA therefore concluded that Beacon and the other small refiners did in fact receive the benefits intended under Special Rule No. 6 during that period of time. The FEA found, however, that Beacon's argument had considerable merit with regard to the month of December 1975, and therefore excluded the firm's operating results for that month from its review of the exception relief granted to the firm in 1975. The exclusion of the December 1975 operating results resulted in a reduction in the entitlements purchase obligation specified in the November 5 Decision by $380,062. The Beacon Appeal was denied in all other respects.

EDG, Inc. appealed from a Decision and Order which the FEA issued to it on November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). In the November 5 Decision, the FEA determined on the basis of the financial and operating data which EDG submitteed that the firm had received an excess measure of exception relief from its obligations under the Entitlements Program in 1975. The November 5 Order accordingly requires EDG to purchase entitlements valued at $1,029,340 during the period November 1976 through October 1977 in order to offset the excess benefits which the firm had received. EDG's present Appeal, if granted, would have resulted in the rescission of the November 5 Decision. In considering the EDG Appeal, the FEA rejected the firm's contention that the exceptions criteria which the FEA enunciated in *Delta Ref. Co.*, 2 FEA Par. 83,275 (September 11, 1975), and later applied in the November 5 Decision issued to EDG, were adopted in a manner that violates the provisions of the Administrative Procedure Act. The FEA also rejected the firm's argument that the FEA improperly included the operating results attained by EDG during the month of January 1975 and that portion of February 1975 in which EDG was exempt from purchasing entitlements under the provisions of Special Rule No. 3. The FEA did not find any merit in EDG's contention that the inclusion of its operating results for that period of 1975 when the firm was exempt from purchasing entitlements under Special Rule No. 3 constitutes an attempt to recapture benefits which EDG is entitled

to retain. The FEA also rejected EDG's contention that the agency improperly included the operating results which the firm realized during the period October through Decemebr 1975 in its review of the exception relief received by EDG during 1975. It was noted that EDG and other small refiners were exempt under the provisions of Special Rule No. 6 from purchasing entitlements which would have been specified in Entitlement Notices issued during the months of December 1975 through May 1976. The FEA therefore concluded that EDG did in fact receive the benefits to which it was entitled under the provisions of Special Rule No. 6. EDG also contended that its operating results for the month of December 1975 should have been excluded from the FEA's review of the exception relief granted to the firm during 1975. It was determined by the FEA that exclusion of those operating results would increase the amount of excess exception relief realized by EDG during 1975. Consequently, the FEA concluded that it was appropriate to include EDG's operating results for December 1975 in reviewing the level of exception relief granted to the firm during 1975. Finally, the FEA rejected EDG's contention that even assuming that the firm had received $1,029,340 in excessive exception relief benefits during 1975, EDG should not be required to refund those benefits since it has sold its refining and marketing assets and is no longer a small refiner. The FEA pointed out that the purpose of the entitlements purchase obligations specified in the November 5 determination was not to impose a new entitlement obligation on EDG and other similarily situated firms, but rather, to require such firms to refund excessive benefits which they received in 1975 at the expense of other refiners through the exception process. The FEA concluded that EDG's sale of its refining and marketing operations does not relieve the firm of its entitlement purchase obligation as set forth in the November 5 Decision. Since EDG had failed to establish that the November 5 Decision was erroneous in fact or law or was arbitrary or capricious, its Appeal was accordingly denied.

*MacKellar, Inc.; Oklahoma City, Okla.; FRA-1147; Crude Oil*

MacKellar, Inc. appealed from a Remedial Order which the Deputy Regional Administrator of FEA Region VI issued to the firm on December 30, 1976. In the Remedial Order, the FEA found that during December 1973, January 1974 and calendar year 1975, MacKellar sold the crude oil which it produced from its Traxler, Loveall and Stubbeman leases at prices which exceeded the ceiling price levels specified in 10 CFR 212.73. As a result, the FEA determined that MacKellar had overcharged the firms to which it sold crude oil by $38,603.43 and ordered restitution of that amount plus interest. In considering the MacKellar Appeal, the FEA initially determined that it had authority to issue remedial orders that require the recipient to reduce prices and refund revenues which it previously received in violation of the Mandatory Petroleum Price Regulations. The FEA also determined that under applicable statutory provisions it may properly distinguish between wells which produce crude oil and wells which produce only natural gas and natural gas condensates for purposes of applying the stripper well property exemption. Finally, the FEA determined that there may be some merit to MacKellar's claim that the wells on the Loveall and Stubbeman leases produce crude oil consisting of a mixture of hydrocarbons which existed in liquid phase in the reservoir. If this were true, and the properties otherwise qualified as stripper well properties, no overcharges as to these leases would have occurred during 1975. Since the Deputy Regional Administration did not appear to have considered this factual question, the FEA granted in part MacKellar's Appeal and remanded the December 30 Remedial Order for an additional factual finding regarding this issue. In all other respects, the MacKellar Appeal was denied. The provisions of the December 30 Remedial Order were stayed pending issuance of a revised Remedial Order.

*Potlatch Corp.; San Francisco, Calif.; FFA-1317; Freedom of Information*

The Potlatch Corporation appealed from a determination issued by the FEA Information Access Officer which denied in part a Request for Information which the firm had filed under the Freedom of Information Act, 5 U.S.C. 552 (the Act). In his decision, the Information Access Officer withheld from disclosure one document entitled "Summary Evaluation of the Feasibility of Total Conversion to Coal Firing for the Clearwater Complex of the Potlatch Corporation" prepared by PEDCo Environmental, Inc. for the FEA (the PEDCo Report). The PEDCo Report was withheld on the grounds that it was exempt from mandatory public disclosure pursuant to Section 552(b)(7)(A) and Section 552(b)(5) of the Act. In considering Potlatch's Appeal, the FEA first determined that exemption 7(A) did not provide a basis for withholding the document from the firm. The FEA found that the PEDCo Report was not the type of investigatory record or file which would be protected by exemption 7(A) but was rather an informational report developed only to aid the FEA in determining the feasibility of requiring Potlatch to convert portions of its Clearwater Complex from the use of petroleum fuels to coal. The FEA also determined that the fifth exemption of the Act was properly applied to portions of the PEDCo Report which were not wholly factual and separable from the advisory portions of the Report. However, those portions of the Report which did not contain analyses or summaries utilized by the FEA to reach a final determination on this matter, and were instead wholly factual and thus not exempt from disclosure pursuant to Section 552(b)(5), were ordered to be released to Potlatch. In addition, the FEA found that it would be in the public interest to release the remainder of the Report presently withheld pursuant to the fifth exemption when the FEA has made a final determination as to the propriety of issuing a Notice of Intent to Potlatch concerning the conversion of the Clearwater Complex from natural gas to coal.

*Propane Reserves, Inc.; Tulsa, Okla.; FRA-1186; Propane*

Propane Reserves, Inc. (PRI) appealed from a Remedial Order in which the Deputy Regional Administrator of Region VI found that during the period October 1, 1973 through April 15, 1974 PRI had sold propane to certain customers at unlawful price levels. In considering PRI's Appeal, the FEA concluded that the Remedial Order correctly found that PRI had acquired a Kansas firm of the same name. The FEA determined in this respect that PRI had acquired an ongoing business and that PRI was therefore subject to the provisions of 6 CFR 150.361(c)(1) and 10 CFR 212.111(c)(1) which govern the computation of base prices where a legal entity or component of a legal entity is acquired by another firm. The FEA further determined however that the Remedial Order had failed to make explicit findings of fact as to the date when the acquisition occurred and that such a finding was critical to a proper determination of the magnitude of any violation of the price regulations. The FEA noted that although the Remedial Order apparently assumed that the acquisition was effective in September 1973, certain evidence in the record indicated that it may not have been effective until the month of December 1973. Furthermore, the FEA determined that the Remedial Order was erroneous in concluding that a May 14, 1973 oral agreement between the Kansas firm and the Flame Propane Gas Company (Flame) for the sale of propane was not a base period "transaction" as that term is used in 10 CFR 212.93(a). The FEA noted that Ruling 1977-5, which discussed the application of the term "transaction" for purposes of computing weighted average May 15, 1973 prices, established a presumption that where there is no written contract a transaction occurs on the date the product is delivered but that this presumption may be rebutted by a showing that a binding contract existed under applicable state law prior to the time of delivery. The FEA concluded that PRI had demonstrated that an oral agreement between the Kansas firm and Flame did in fact exist on May 14, 1973 and that under applicable state law the agreement did constitute a binding contract. Consequently, the FEA determined that contrary to the conclusion reached in the Remedial Order, the agreement represented a base period "transaction." On the basis of the foregoing considerations, the FEA determined that the Remedial Order was defective in failing to make findings of fact as to when PRI acquired the Kansas firm and in failing to determine that the May 14, 1973 oral agreement was a base period transaction. The Remedial Order was therefore rescinded.

*Joe E. Sharber; Wewoka, Okla.; FXA-1229; Crude oil*

Joe E. Sharber appealed from a Decision and Order which the FEA issued to him on January 13, 1977. Joe E. Sharber, 5 FEA Par. 83,043 (January 13, 1977). In that determination the FEA approved exception relief which permitted Sharber on a prospective basis to sell 46.5 percent of the crude oil which he produces and sells from the Rodden No. 1 Well at upper tier ceiling prices. In his Appeal, Sharber contended that the FEA erred in refusing to approve his request for retroactive exception relief. In considering the Appeal, the FEA rejected Sharber's contention that it was unreasonable to require him to comply with the provisions of Ruling 1970-12. That Ruling sets forth the criteria that must be met for a well to be regarded as a multiple completion well for purposes of determining whether a property qualifies as a stripper well property. The FEA noted that contrary to Sharber's assertion he was not required to comply with the Ruling, nor did the Ruling impose any burden on Sharber. The FEA also reaffirmed the finding made in the prior determination that even if Sharber had sold the crude oil which he produced from the Lease during the period January 1974 through June 1976 in accordance with the applicable FEA price regulations, Sharber would still have realized a net operating profit. Therefore, the FEA concluded that Sharber had failed to demonstrate that he will incur an irreparable injury unless retroactive exception relief is granted. Finally, the FEA found that no additional prospective exception relief would be appropriate at the present time to account for an increase in Sharber's operating expenses since he had failed to demonstrate that the increase was substantial. Nevertheless, the FEA found that since the upper tier ceiling price had been reduced by 45 cents per barrel on March 1, 1977, that action ef-

fectively negated a portion of the exception relief which had been approved in the January 13 determination. Therefore, the FEA adjusted the exception relief which had been approved in order to account for this in the ceiling price. In all other respects, Sharber's Appeal was denied.

*Texaco, Inc.; New York, N.Y.; FFA-1316; Freedom of Information*

Texaco, Inc. appealed from an Order issued to it by the FEA Information Access Officer denying in part a Request for Information which Texaco had filed under the Freedom of Information Act, 5 U.S.C. 552 (the Act). In its Appeal, Texaco contended that it was erroneous for the Information Access Officer to have withheld certain documents which the FEA had in its possession concerning the National Oil Recovery Corporation (NORCO I). In support of its position, Texaco alleged that since NORCO I sold all of its assets to Joc Oil Company, NORCO I could not experience any competitive injury if the documents which were withheld pursuant to Section 552(b)(4) are released. In considering the Appeal, the FEA noted that Joc Oil had transferred all of the NORCO I assets to a new Delaware corporation which had the same name, National Oil Recovery Corporation (NORCO II), which was organized for the purpose of engaging in the same business operation as NORCO I. Consequently, NORCO II could experience significant injury in a competitive sense if confidential material pertaining to NORCO I were released. The FEA therefore concluded that any confidential material which NORCO I submitted to the FEA does not lose that designation merely because the owners of NORCO II are different from those of NORCO I. With respect to the specific documents which were withheld by the Information Access Officer, the FEA found that five of the documents which were withheld pursuant to exemption 4 of the Act should have been released to Texaco since they contained no confidential commercial information which could injure the competitive position of NORCO II. The FEA also determined that the remainder of the documents which the Information Access Officer withheld under Section 552(b)(4) contain confidential information regarding the NORCO II refining facilities and were therefore properly withheld from public disclosure. The FEA further determined that a predecisional report prepared by an FEA staff analyst concerning the NORCO refining facilities was properly withheld pursuant to both exemptions 4 and 5. Finally, the FEA found that a portion of the Compliance Case Checklist was properly withheld since it does not contain final agency opinions which explain an agency action, but contains opinions which are merely recommendatory in nature, and therefore fall within the scope of exemption 5. Texaco's Appeal was therefore granted in part.

PETITION FOR SPECIAL REDRESS

*Leonard E. Belcher, Inc.; Alexandria, Va.; FSG-0044; FES-0095; No. 2 fuel oil*

Leonard E. Belcher, Inc. (Belcher) filed a Petition for Special Redress requesting that the FEA Office of Private Grievances and Redress direct the FEA Regional Office in Boston, Massachusetts (Region I) to grant Belcher the authority to issue subpoenas in connection with the preparation of its defense to a pending FEA enforcement proceeding. Belcher also submitted an Application for Stay in which it requested that further enforcement proceedings against it by FEA Region I be stayed pending a final determination on its Petition. In considering the firm's submissions, the FEA determined that the FEA Regulations do not permit the agency to authorize the issuance of subpoenas directly by a party to an agency proceeding. The FEA also found that the FEA Regulations do not require that the agency issue a formal order in response to a request that it issue subpoenas in a particular proceeding. The FEA determined that Belcher's right to due process of law in the present case was adequately protected since the firm has available to it at later stages of the enforcement proceeding ample safe guards against arbitrary or capricious action by the FEA Regional Office. The FEA therefore denied both the Belcher Petition for Special Redress and the Application for Stay.

REQUESTS FOR EXCEPTION

*Bright & Schiff; Dallas, Tex.; FEE-4091; Crude oil*

Bright & Schiff (B&S) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would have permitted the firm to sell the crude oil produced from its O.S. Petty No. 1 Well at prices exceeding the lower tier ceiling prices specified in 10 CFR 212.73. According to the B&S submission, in the absence of exception relief the firm would not have sufficient economic incentive to undertake capital investment projects which were incentive to undertake capital investment projects which were necessary to recommence its crude oil production operations at the Well. In considering the B&S Application, the FEA determined that a substantial amount of crude oil could be recovered from the O.S. Petty No. 1 Well if the investments necessary to resume crude oil extraction operations were made. The FEA also determined that under currently applicable FEA regulations the firm would realize a negative rate of return on the necessary capital investments so that no apparent economic incentive to resume production activities existed. On the basis of previous precedents, the FEA concluded that exception relief should be granted to provide B&S with a sufficient economic incentive to make the necessary investments while at the same time avoiding the possibility that windfall profits would be obtained as a result of the approval of exception relief. Exception relief was therefore approved to Bright & Schiff for the three year period July 1, 1977 through June 30, 1980 which permitted the firm to sell at upper tier ceiling prices a certain amount of crude oil produced from the O.S. Petty No. 1 Well.

*City of Long Beach, Calif.; Long Beach, Calif.; FXE-4075; Crude oil*

The City of Long Beach, California (Long Beach) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would have resulted in the extension of the exception relief previously granted and would have permitted Long Beach to continue to sell portions of the crude oil produced from Fault Block Unit 2 (Unit 2) in the Wilmington Field at upper tier ceiling prices. In considering the exception application, the FEA determined that Unit 2 was continuing the lower tier ceiling price. Consequently, the FEA found that the working interest owners lacked an economic incentive to maintain crude oil production from the Unit at the current lower tier ceiling price. In view of this determination and on the basis of the operating data which Long Beach had submitted for the most recently completed fiscal period, the FEA concluded that exception relief should be extended to Long Beach which would permit it to sell 24.6154 percent of the crude oil produced from Unit 2 for the benefit of the working interest owners at upper tier ceiling prices.

*Limpp Oil Co.; Marshall, Mo.; FEE-3897; Motor gasoline*

Limpp Oil Company (Limpp) filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would have resulted in the issuance of orders by the FEA assigning Limpp a new lower-priced supplier of motor gasoline to replace two of its base period suppliers. In considering the exception request, the FEA determined that the weighted average price which Limpp pays for motor gasoline from its base period suppliers is well within the range of prices charged by other suppliers in the Limpp marketing area. In view of this consideration, the FEA concluded that any financial difficulties which Limpp is experiencing do not result from the high price of motor gasoline charged by the firm's base period suppliers. Limpp's exception request was therefore denied.

*Phillips Petroleum Co.; Bartlesville, Okla.; FEE-3668; Crude oil*

Phillips Petroluem Company (Phillips) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Hopkins "A" Lease (the Hopkins Lease) at upper tier ceiling prices. In considering the exception request, the FEA determined that the costs of producing crude oil from the Hopkins Lease have increased significantly since 1973, and, as a result of these increased costs, Phillips' production costs now exceed the prices which the firm is permitted to charge for the crude oil which it sells. Consequently, the FEA concluded that Phillips does not have an economic incentive to continue to operate the Hopkins Lease. The FEA also found that there would be little possibility that the recoverable crude oil from the Lease's reservoir would be produced by a firm in the absence of exception relief. On the basis of precedents involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Phillips. Accordingly, on the basis of the operating data which the firm submitted for its most recently completed fiscal period, Phillips was granted exception relief which permits the firm to sell at upper tier ceiling prices 26.63 percent of the crude oil produced and sold for the benefit of the working interest owners from the Hopkins Lease.

*Pryor Interprises, Inc.; Griffin, Ga.; FEE-4074; Motor gasoline*

Pryor Interprises, Inc. filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result on the issuance of an order assigning the firm a new, lower-priced supplier of motor gasoline to replace the firm's present base period suppliers of that product. In considering Pryor's request, the FEA found that the firm was unable to buy motor gasoline at a price comparable to prices paid by its competitors either from its base period suppliers or on the surplus market. The FEA also found that Pryor had been unable to earn any appreciable profits during the last few years, but that in view of the firm's relatively consistent financial results over that period, it had not demonstrated that its current financial difficulties were primarily caused by its present cost disadvantage. However, it was determined that although Pryor was unable to demonstrate that the FEA regulatory requirements were the original cause of its financial problems, the firm did establish that the continued application to it of the regulations

constituted a present impediment to its efforts to preserve its financial and competitive viability. Furthermore, this data indicated that unless Pryor is assigned a lower-priced supplier, it will be unable to earn any substantial profits on contracts which it has been awarded under the Small Business Administration's Section 8(a) program, which were intended to assist the firm in becoming a viable independent marketer. Based on these factors the FEA concluded that exception relief was warranted and it was issued an order directing that Pryor be assigned a competitively-priced supplier of motor gasoline for the duration of the Section 8(a) contracts which it has been awarded.

*Sunland Refining Corp.; Los Angeles, Calif.; FEE-3328; Crude oil*

Sunland Refining Corporation (Sunland) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). Sunland's request, if granted, would result in certain adjustments being made to the firm's historical profitability which is used by the FEA in determining the appropriate level of exception relief to grant from its purchase obligations under the Entitlements Program. In addition, the FEA would use this revised historical profitability in its review of the amount of entitlement exception relief granted to Sunland during its fiscal year ended December 31, 1976. Sunland contended that as a result of a number of significant changes in its operations which were implemented subsequent to 1974, the firm's present operations bear little resemblance to those which the firm conducted during the 1968 through 1974 historical period used by the FEA to evaluate applications for exception from the Entitlements Program. Sunland further contended that it is presently experiencing a serious financial hardship and must rely on financial institutions to provide necessary working capital funds. In considering Sunland's request, the FEA noted that subsequent to the filing of Sunland's present Application for Exception the firm entered into a new contract for the purchase of crude oil which altered the firm's projected status under the Entitlements Program for its entire 1977 fiscal year from that of a net purchaser of entitlements to that of a net seller. As a result, the FEA determined that Sunland would be a net beneficiary of the Entitlements Program during its 1977 fiscal year and therefore would not be eligible to receive an exception from its obligations under the Entitlements Program in the foreseeable future. The FEA further determined that although Sunland had made a convincing showing that its current operations are substantially different from those which the firm conducted during the 1968 through 1974 historical period, the firm had failed to satisfy the standards set forth in Southland Oil Co., 5 FEA Par. 80,505 (December 21, 1976), under which retroactive entitlement exception relief is approved. Sunland's Application for Exception was accordingly denied.

*Texaco, Inc., New York, N.Y.; FEE-4262;FES-4262; Coal conversion*

Texaco, Inc. (Texaco) filed an Application for Exception which, if granted, would extent the period of time within which the firm could submit comments with respect to a Notice of Intent (NOI) which had been issued to the firm by the FEA pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA). Texaco also requested that the closing of the agency record with respect to the submission of written comments concerning the NOI be stayed pending a determination of its Application for Exception. In its exception application, Texaco contended that unless it was allowed additional time to analyze the information related to the NOI and to have the results of its analysis considered as part of the record, it would be denied its right of effective participation in the NOI proceeding. Texaco therefore requested that the period of time within which it could submit comments regarding the NOI be extended from June 14, 1977 to June 24, 1977. In considering Texaco's exception application, the FEA noted that it had considered and ultimately rejected a similar contention in a recent Decision and Order, New England Power Co.; Montaub Electric Co., 5 FEA Par. 83,167 (May 26, 1977), and that the determination reached in that case was equally applicable to Texaco's request for exception relief. The FEA further noted that none of the arguments advanced by Texaco distinguished its Application for Exception from those which had been submitted by the New England Power Company and the Montaub Electric Company. Accordingly, Texaco's Application for Exception was denied and its Application for Stay was dismissed.

REQUEST FOR MODIFICATION OR RESCISSION

*Consumer Federation of America; Washington, D.C.; FMR-0106; Middle distillates*

The Consumer Federation of America (CFA) filed a request for modification of a Decision and Order which the FEA issued to it on May 6, 1977. Consumer Federation of America, 5 FEA Par. 87,040 (May 6, 1977). In the previous Order, the FEA granted in part a Petition for Special Redress which the CFA had submitted and directed that financial assistance be provided to the CFA to ensure that it would be able to participate in a rulemaking proceeding which the FEA had proposed to consider whether allocation and price controls should be reimposed on middle distillates. However, the May 6 Order limited the total reimbursement which the FEA provided to cover the CFA's direct out of pocket expenses to $6,000, and provided that the CFA could submit a further Petition for reimbursement for legal services which it incurred following the conclusion of the proposed rulemaking proceeding. In its submission, the CFA requested that the FEA substantially increase the total amount of financial reimbursement provided to the organization. In considering the CFA's submission, the FEA determined that the additional financial material which the CFA provided confirmed that the CEA is unable to make a significant contribution of funds toward its proposed participation in the upcoming rulemaking proceeding. The FEA therefore directed that the CFA should be reimbursed for all expenses which it incurs in retaining economic and financial experts, as well as for all directs out of pocket expenses which it incurs. The FEA limited the total amount of financial reimbursement to $11,100, which was the amount which the CFA requested for these expenses in its initial Petition. However, the FEA rejected the CFA's request that its attorneys be reimbursed immediately rather than at the conclusion of the rulemaking proceeding. It found that the CFA had failed to justify a departure from the FEA's prior decisions regarding attorney's fees.

REQUESTS FOR STAY

*Lake Region Gas Co.; Benton, Ky.; FRS-1335; Propane*

Lake Region Gas Company (Lake Region) filed an Application for Stay of a Remedial Order which the Regional Administrator of FEA Region IV issued to the firm on April 21, 1977. In the Remedial Order, Region IV determined that Lake Region sold propane at prices which exceeded the maximum levels permitted under the provisions of 6 CFR 150.359 and 10 CFR 212.93. The Remedial Order therefore directed Lake Region to immediately refund the amount of the overcharges, plus interest. Lake Region requested that the provisions of the Remedial Order which required it to make immediate refund of the overcharges be stayed pending a determination on a Appeal which the firm has filed with the National Office and an Application for Exception which the firm has filed with FEA Region IV. In considering the request for stay, the FEA determined that Lake Region had raised substantial issues in its various submissions to the agency. In addition, the FEA determined that Lake Region had made a strong showing that if it is required to make the refunds, the firm could experience substantial difficulty in recovering the funds in the event that it prevails on the merits of its Appeal or exception application. The FEA therefore held that Lake Region had satisfied the criteria set forth in General Crude Oil Co., 3 FEA Par. 85,040 (June 25, 1976) for the approval of a stay from the refund requirements specified in a Remedial Order. Furthermore, the FEA determined that, in view of the undue administrative delay on the part of the FEA Region IV in reaching a determination on Lake Region's exception application, it would be inappropriate to require the firm to place the disputed funds into an escrow account.

*Mullins and Prichard; New Orleans, La.; FRS-1342; Crude oil*

Mullins and Prichard (Mullins) requested that the provisions of a Remedial Order which the FEA issued to the firm on May 9, 1977 be stayed pending a final determination of its Appeal. In the Remedial Order the FEA found that Mullins had received excessive payments for crude oil which it produced and sold during the period May 1974 through June 1975. On the basis of this finding, the Remedial Order directed Mullins to refund the full amount of the overcharges plus interest within one year. In considering the request for stay, the FEA concluded that Mullins had demonstrated that it would experience an irreparable injury in the event that it is required to make refunds to the purchasers of the crude oil, since those firms would pass on the refunds to their own customers and Mullins could experience substantial difficulty in recovering the funds in the event that it prevails on Appeal. Furthermore, the FEA found that Mullins had raised substantial issues which must be considered in making a determination on the merits of the firm's Appeal. Consequently, the FEA determined that a stay of the Remedial Order was warranted on the condition that Mullins place the total amount of the refunds specified in the Remedial Order into an escrow account.

SUPPLEMENTAL ORDER

*Gary Western Co., Englewood, Colo.; FEX-0163; Petroleum products*

On April 25, 1977 the FEA issued a Decision and Order to Gary Western Company (Gary) which stayed Gary's obligation to comply with the provisions of 10 CFR 212.83 (c) (2) (iii) (E) pending a determination on an Application for Exception which Gary filed on April 15, 1977. Gary Western Co., 5 FEA Par. 85,056 (April 25, 1977). The Stay permitted Gary to compute its increased non-

product costs in the manner specified by the FEA Price Regulations as they existed prior to March 1, 1977. On June 8, 1977 Gary informed the FEA that the impact of the regulatory provisions involved would be less severe than Gary had anticipated when it filed its Applications for Exception and Stay and therefore withdrew its Application for Exception. Accordingly, the FEA concluded that the Stay was no longer necessary and should be vacated.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

| Company | Case No. | Plant | Amount of price increase, dollar/gal. |
|---|---|---|---|
| Austral Oil Co. | FEE-4036 | South Thornwell | 0.0349 |
| | FEE-4037 | TSMA | .0180 |
| Cities Service Co. | FEE-4031 | Adair | .0513 |
| | FEE-4032 | Calumet | .0076 |
| | FEE-4033 | Cheney | .0072 |
| | FEE-4034 | Moncrief | .0230 |
| | FEE-4035 | Selling | .0099 |
| Delta Drilling Co. | FEE-4000 | Etexas | .0488 |
| Enkay Corp. | FEE-4038 | East Texas | .0487 |
| Southern Natural Resources, Inc. | FEE-4073 | Sea Robin | .0189 |
| Standard Oil Co. (Indiana) | FEE-4079 | Kalkaska | .00893 |
| Texaco, Inc. | FEE-4051 | Headlee Gas | .0115 |
| | FEE-4052 | Headlee Cycling | .0324 |
| | FEE-4053 | Houma | .0104 |
| | FEE-4054 | Krotz Springs | .0213 |
| | FEE-4055 | Toca | .0095 |
| | FEE-4093 | Delhi | .0135 |

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

*Gary Western Co.; Englewood, Colo.; FEE-4023*

*Mountain Fuel Supply Co.; Salt Lake City, Utah; FEE-3908*

*The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:*

*Justiss-Mears Oil Co.; Jena, La.; FEE-4097*

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

*Kentucky Oil and Refining Co., Inc.; Betsy Lane, Ky.; FEE-4082*

*The following submissions were dismissed following a determination by FEA that the relief requested was no longer necessary:*

*Little America Refining Co.; Washington, D.C.; FEE-3999*

*Powerine Oil Co.; Los Angeles, Calif.; FST-0043*

Copies of the fulltext of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

ERIC J. FYGI,
*Acting General Counsel.*

AUGUST 3, 1977.

[FR Doc.77-22847 Filed 8-10-77;8:45 am]

## McALESTER FUEL CO.

### Proposed Consent Order

I. INTRODUCTION

Pursuant to 10 CFR § 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order which was executed between McAlester Fuel Co. (McAlester) and the FEA on July 20, 1977. In accordance with that section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, the FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

McAlester, located in McAlester, Okla., is a firm engaged in the production and sale of crude oil and, therefore, subject to FEA regulations.

As a result of an audit conducted by FEA of McAlester's pricing practices for the period September 1, 1973 through December 31, 1976, FEA advised McAlester that McAlester had apparently charged several of its purchasers of crude oil prices in excess of those permitted under Cost of Living Council price rule in 6 C.F.R. § 150.354 and the FEA price rule in 10 C.F.R. § 212.73. FEA contended that those overcharges were the result of (1) McAlester's errors in computing the base production control level for several properties which were either unitized or deunitized during 1972, (2) McAlester's inclusion of abandoned wells as full producing wells when computing its average daily production for purposes of the stripper well lease exemption, and (3) McAlester's mathematical errors when computing the base production control level for several properties.

In an effort to conclude this compliance proceeding and to resolve the issues raised by the audit results, FEA and McAlester entered into a Consent Order, the significant terms of which are:

(1) McAlester shall refund to its crude oil purchasers all amounts charged in excess of maximum lawful prices together with appropriate interest. FEA has computed the total overcharge (excluding interest) at $8,265,940.57. Refunds shall be made in the form of price reductions on sales of crude oil.

(2) All refunds and interest payments will be made in accordance with the refund schedule annexed to the Consent Order. Refunds will be paid on a well by well basis and will extend over a one month to 36 months period of time.

(3) McAlester shall certify in writing to FEA the status of all refunds every three months until completion.

(4) McAlester agrees to determine, within thirty days after the effective date of the Consent Order, whether any further overcharges occurred at the leases in question due to the errors alleged by FEA to have occurred in this proceeding. McAlester will certify the result of the investigation to FEA and present to FEA for its approval a plan refunding any such further overcharges.

(5) McAlester shall calculate maximum lawful selling prices consistent with FEA's rules and regulations.

(6) The provisions of 10 CFR § 205.197, including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. Wayne E. Gifford, Deputy Regional Administrator, Region VI, Federal Energy Administration, P.O. Box 35228, Dallas, Tex. 75235. Copies of this Consent Order may be received free of charge by written request to this same address or by calling 214-749-7626.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on McAlester Consent Order." All comments received by 4:30 p.m. CDT on the 30th calendar day following publication of this Notice in the FEDERAL REGISTER will be considered by the FEA in evaluating the Consent Order. Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 C.F.R. § 205.9(f).

Issued in Washington, D.C. on this 8th day of August, 1977.

ERIC J. FYGI,
*Acting General Counsel.*

FEDERAL ENERGY ADMINISTRATION

REGION VI
*Dallas, Tex.*

FEDERAL ENERGY ADMINISTRATION, TITLE 10, CHAPTER II, PART 205

CONSENT ORDER

*McAlester Fuel Company*

This Consent Order, entered into pursuant to 10 CFR section 205.197, settles certain claims and disputes between the Federal Energy Administration (FEA) and McAlester Fuel Co. (McAlester), to the extent provided herein, with respect to errors committed by McAlester in applying FEA and Cost of Living Council (CLC) regulations to the first sale of domestic crude oil produced from certain leases and in selling such crude oil at prices higher than permitted under those regulations during the audit period of September 1, 1973 through December 31, 1976.

The terms and conditions of this Consent Order and the stipulated facts upon which it is based are contained in the following numbered paragraphs.

1. McAlester is a producer of crude oil as defined by 10 CFR section 212.31 and 6 CFR section 150.352. During its audit of McAlester, FEA preliminary determined that the firm incorrectly applied FEA and CLC price regulations to the first sale of domestic crude oil produced from certain properties due to incorrect calculations of the base production control level (BPCL) from each of these properties. A preliminary determination was also made that those incorrect calculations had resulted in overcharges totaling $8,265,940.57 due to sale of old crude oil at prices exceeding the ceiling prices provided by 10 CFR section 212.73 and 6 CFR section 150.353. FEA has preliminarily determined that the errors in computing BPCL were attributable to the following reasons:

A. McAlester computed the BPCL for the Jim Coulee Unit, a property unitized effective July 1, 1972, based upon production during the July–December 1972 post-unitization period and disregarded production from the component properties of that unit for the January–June 1972 preunitization period. In addition, McAlester computed the BPCLs for the deunitized properties of the Village Travis Peak "C" San Unit, viz., the E. D. Harris "C" property, the Threadgill property and the D. E. Rogers "A" property, based upon production from each property during the August–September 1972 post-unitization period and disregarded production from the unit for the January–July 1972 period of unitization. FEA's preliminary determination is that those errors in computing BPCLs resulted in overcharges totaling $8,206,614.13 due to sales of old crude oil at new and released crude oil prices. A schedule of those leases, purchasers of lease production, dates and amounts of overcharges is annexed to this Consent Order as Exhibit 1.

B. McAlester sold crude oil produced from various leases as though produced from stripper well leases despite the average daily production from such leases being in excess of the limits set in 10 CFR section 210.32. FEA's investigation disclosed that McAlester had miscalculated the average daily production by counting abandoned wells as full producing wells although CLC and FEA regulations, as discussed in FEA Ruling 1975–12, prohibit such conduct. FEA's preliminary determination is that such miscalculation resulted in overcharges totaling $49,425.08 due to the sale of old crude oil at stripper well crude prices without regard to the ceiling price and in violation of 10 CFR section 212.73 and 6 CFR section 150.353. A schedule of those leases, purchasers of the lease production, dates and amounts of overcharge is annexed to this Consent Order as Exhibit 2.

C. McAlester apparently miscalculated the BPCL for various properties due to mathematical errors and as a result sold old crude oil at new and released crude oil prices. In the case of the Kennedy Estate "A" property, McAlester apparently disregarded the cumulative deficiency for that property when determining new oil production and as a result sold old crude oil at new and released crude oil prices. FEA's preliminary determination is that the above errors resulted in overcharges totaling $9,901.36. A schedule of those leases, purchasers of the lease production, dates and amounts of overcharges is annexed to this Consent Order as Exhibit 3.

2. McAlester agrees to make price reductions totaling $8,265,940.57 plus interest to those purchasers of crude oil from the leases and in the amounts shown in Exhibit 4 annexed to this Consent Order. The refund period for each lease overcharge shall be as detailed in Exhibit 4. Within 30 days of the effective date of this Consent Order, McAlester must reduce the price of crude oil sold from any property in violation to a price below the maximum allowable price for that oil. The price reductions must be great enough to have completed restitution, with interest, within the time period indicated on Exhibit 4. The "maximum allowable price" referred to above is to be construed as the appropriate ceiling price computed under FEA regulations or, if applicable, the prevailing stripper exempt price for crude oil in the field in which the property is located. Simple interest on the overcharges shall be calculated at the rate of six (6) percent per annum on all amounts outstanding prior to July 1, 1975, at the rate of nine (9) percent per annum on all amounts outstanding from July 1, 1975 through January 31, 1976, and at the rate of seven (7) percent per annum on all amounts outstanding after February 1, 1976.

3. McAlester shall supply each recipient of a price reduction with a written statement that identifies the refund as an act undertaken in compliance with this Consent Order. That statement shall advise the recipient that the refund represents a decrease in the purchaser's current month crude oil costs for purposes of FEA price regulations.

4. McAlester shall maintain separate records for all price reductions given pursuant to this Consent Order and shall make those records available to FEA for inspection upon FEA request.

5. McAlester shall certify in writing the status of all refunds and reductions to FEA every three months until completion, beginning three months after the effective date of this Consent Order. All such certifications shall be mailed to: Nick L. Kelly, Area Manager, Tulsa II Area Office, Federal Energy Administration, P.O. Box 45875, Tulsa, Okla. 74145.

6. McAlester agrees to determine within thirty (30) days after the effective date of this Consent Order whether any further overcharges occurred at the leases in question subsequent to the period covered in FEA's audit due to the misapplication of those FEA regulations identified in this Consent Order. McAlester will certify the result of that investigation to FEA at the address set forth in paragraph 5 of this Order and present to FEA for its approval a plan for refunding any such further overcharges. If and when such plan is approved in writing by the FEA, it will become a supplement to this Consent Order, subject to all terms and conditions stated herein, and may be put into effect, without further action on the part of McAlester or the FEA, as if initially a part of this Consent Order.

7. This Consent Order does not constitute an admission by McAlester or a finding by FEA that non-compliance with or violations of FEA rules and regulations have occurred.

8. McAlester hereby offers and FEA hereby accepts on behalf of the United States, the sum of $75,000 in compromise and settlement of all civil penalty claims of the United States which may arise against McAlester by reason of the alleged violations of FEA regulations settled in the terms of this Consent Order. Payment shall be made by certified check made payable to the Federal Energy Administration and shall be accepted subject to this Consent Order becoming final.

9. McAlester has been advised by the FEA of the correct method of determining prices for the sale of domestic crude oil under FEA regulations through its review with FEA personnel of FEA's worksheets relating to FEA's audit of McAlester and agrees to comply with those regulations in the manner described by such FEA representation.

10. In consideration of McAlester's agreement to the aforementioned terms and conditions of this Consent Order, and upon the satisfactory performance of the refunds specified herein, the FEA will consider McAlester to be in compliance with FEA regulations up to and including December 31, 1976 or such later date as may be established in any refund plan approved pursuant to paragraph 6 above.

11. FEA reserves the right to take further remedial action in this case if FEA determines that information upon which this Consent Order is based was erroneous or that the action of McAlester hereunder have not been undertaken in a manner consistent with the aforementioned terms and conditions of this Consent Order, or with applicable FEA rules and regulations.

12. This Consent Order shall be a final Order of the FEA having the same force and effect as a Remedial Order issued pursuant to 10 CFR section 205.192. In consideration of the FEA's agreement to the terms of this Consent Order, and in accordance with 10 CFR Section 205.197(b), McAlester hereby expressly waives its rights to appeal or obtain judicial review of this Order.

This Consent Order shall become effective upon notice to that effect published in the FEDERAL REGISTER. Prior to its effective date, FEA will publish a notice in the FEDERAL REGISTER pursuant to section 205.197(c) that it has entered into this Consent Order and will provide not less than 30 days for members of the public to submit written comments with respect to it. After expiration of the comment period and prior to the effective date of this Consent Order, the FEA reserves the right to withdraw its Consent to this Order for any reason.

The provisions of 10 CFR section 205.197 are applicable to this Consent Order and are incorporated by reference herein.

I, the undersigned, a duly authorized representative of the McAlester Fuel Co., hereby agree to and accept on behalf of said company the foregoing Consent Order.

Dated: July 19, 1977.

M. C. JONES,
*Vice President, Oil & Gas Division.*

I, the undersigned, a duly authorized representative of the Federal Energy Administration, hereby agree to and accept on behalf of said Administration the foregoing Consent Order.

Dated: July 20, 1977.

WAYNE E. GIFFORD,
*Deputy Regional Administrator.*

EXHIBIT 1.—*Consent Order McAlester Fuel Co.*

| Lease | Purchaser | Date | Overcharge |
|---|---|---|---|
| Jim Coulee Unit, Musselshell County, Mont. | Conoco | February 1974 to December 1976 | $8,149,222.62 |
| E. D. Harris "C," Columbia County, Ark. | Lion Oil Co. | September 1973 to November 1974 | 17,346.81 |
| Threadgill, Columbia County, Ark | do | September 1973 to December 1975 | 39,784.82 |
| D. E. Rogers "A", Columbia County, Ark. | do | September 1973 to November 1973 | 259.88 |
| Total | | | 8,206,614.13 |

EXHIBIT 2

| Lease | Purchaser | Date | Overcharge |
|---|---|---|---|
| Sabine River Bed 6, Gregg County, Tex. | Scurlock Oil Co | January 1974 to December 1975 | $29,906.11 |
| Federal "A" | Mobil Oil Co | April 1976 to December 1976 | 19,518.97 |
| Total | | | 49,425.08 |

EXHIBIT 3

| Lease | Purchaser | Date | Overcharge |
|---|---|---|---|
| McClure "A", Lea County, N.M. | Amoco Production | September 1973 to July 1976 | $7,380.84 |
| Kennedy Estate "A", Lafayette County, Ark. | Lion Oil Co | February 1974 to June 1974 | 1,114.80 |
| State "A", Lea County, N. Mex | Amoco Production | November 1973 to September 1976 | 1,096.12 |
| Federal "A", Lea County, N. Mex | Mobile Oil Co | October 1973 | 309.60 |
| Total | | | 9,901.36 |

EXHIBIT 4

[Refund due [1] Amoco Production Co.]

| Lease | Period of violation | Overcharge | Maximum time to complete refund [2] |
|---|---|---|---|
| State "A", Lea County, N. Mex | November 1973 to September 1976 | $1,096.12 | 1 mo. |
| McClure "A", Lea County, N. Mex | September 1973 to July 1976 | 7,380.84 | 2 mo. |

[Refund due [1] Lion Oil Co.]

| | | | |
|---|---|---|---|
| E. D. Harris "C", Columbia County, Ark. | September 1973 to November 1974 | 17,346.81 | 6 mo. |
| Threadgill, Columbia County, Ark | September 1973 to December 1975 | 39,784.82 | 12 mo. |
| D. E. Rogers "A", Columbia County, Ark. | September 1973 to November 1973 | 259.88 | 1 mo. |
| Kennedy Estate "A", Lafayette County | February 1974 to June 1974 | 1,114.80 | 1 mo. |

[Refund due [1] Scurlock Oil Co.]

| | | | |
|---|---|---|---|
| Sabine River Bed 6, Gregg County, Tex. | January 1974 to December 1975 | 29,906.11 | 12 mo. |

[Refund due [1] Conoco]

| | | | |
|---|---|---|---|
| Jim Coulee, Musselshell County, Mont | February 1974 to December 1976 | 8,149,222.62 | 36 mo. |

[Refund due [1] Mobil Oil Co.]

| | | | |
|---|---|---|---|
| Federal "A", Lea County, N. Mex | October 1973 to December 1976 | 19,828.57 | 6 mo. |

[1] McAlester is also required to refund interest on the amounts given. The figures in this schedule do not include interest.
[2] Time period commences on the effective date of this Consent Order.

FIRST NATIONAL BANK
MAGNOLIA & TAYLOR
P.O. BOX 400
MAGNOLIA, ARKANSAS 71753

40149

REMITTER
McAlester Fuel Co. per FEA letter 7-15-77

7-19 19 77

81-162
829

FIRST NATIONAL BANK 7500033800

PAY TO THE ORDER OF Federal Energy Admn.

DOLLARS $75,000.00

CASHIER'S CHECK

Gdt Bahrer

⑈040149⑈ ⑆082900162⑆ ⑈900003⑈

[FR Doc.77-23249 Filed 8-10-77;8:45 am]

## SMACKOVER PRODUCING CO.

### Proposed Consent Order

I. INTRODUCTION

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order which was executed between Smackover Producing Co (Smackover) and the FEA on July 20, 1977. In accordance with that Section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, the FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Smackover, located in El Dorado, Ark., is a firm engaged in the production and sale of crude oil and therefore subject to FEA regulations.

As a result of an audit conducted by FEA of Smackover's pricing practices for the period September 1, 1973, through December 31, 1976, FEA advised Smackover that Smackover had apparently charged two purchasers of crude oil prices in excess of those permitted under Cost of Living Council price rule in 6 CFR 150.354 and the FEA price rule in 10 CFR 212.73. FEA contended that those overcharges were the result of Smackover's error in including abandoned wells as full producing wells when computing its average daily production for purposes of the stripper well lease exemption.

In an effort to conclude this compliance proceeding and to resolve the issues raised by the audit results, FEA and Smackover entered into a Consent Order, the significant terms of which are:

(1) Smackover shall refund to its crude oil purchasers all amounts charged in excess of maximum lawful prices together with appropriate interest. FEA has computed the total overcharge (excluding interest) at $1,118,705.81. Refunds shall be made in the form of price reductions on sales of crude oil.

(2) All refunds and interest payments will be made within 36 months of the effective date of the Consent Order.

(3) Smackover shall certify in writing to FEA the status of all refunds every three months until completion.

(4) Smackover agrees to determine, within thirty days after the effective date of the Consent Order, whether any further overcharges occurred at the leases in question due to the errors alleged by FEA to have occurred in this proceeding. Smackover will certify the result of the investigation to FEA and present to FEA for its approval a plan refunding any such further overcharges.

(5) Smackover shall calculate maximum lawful selling prices consistent with FEA's rules and regulations.

(6) The provisions of 10 CFR 205.197, including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. Wayne E. Gifford, Deputy Regional Administrator, Region VI, Federal Energy Administration, P.O. Box 35228, Dallas, Tex. 75235. Copies of this Consent Order may be received free of charge by written request at this same address or by calling 214-749-7626.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Smackover Consent Order." All comments received by 4:30 p.m. CDT on September 12, 1977, will be considered by the FEA in evaluating the Consent Order. Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C. on this 8th day of August, 1977.

ERIC J. FYGI,
*Acting General Counsel.*

FEDERAL ENERGY ADMINISTRATION

TITLE 10, CHAPTER II, PART 205

CONSENT ORDER

ROBERT E. ADAIR AND LEO D. RECKNAGEL D.B.A. SMACKOVER PRODUCING CO.

This Consent Order, entered into pursuant to 10 CFR 205.197, settles certain claims and disputes between the Federal Energy Administration (FEA) and Smackover Producing Co. (Smackover), to the extent provided herein, with respect to errors committed by Smackover in determining average daily production from certain leases for stripper well lease exemption and in the selling of crude oil produced from those leases at prices higher than those permitted under FEA and Cost of Living Council regulations during the audit period of September 1, 1973 through December 31, 1976.

The terms and conditions of this Consent Order and the stipulated facts upon which it is based are contained in the following numbered paragraphs.

1. Smackover is a producer of domestic crude oil as defined in 10 CFR 212.31 and 6 CFR 150.352. During its audit of Smackover, FEA preliminarily determined that Smackover miscalculated the average daily production from certain leases through counting abandoned wells as full producing wells although CLC and FEA regulations, as discussed in Ruling 1975-12, prohibit such conduct. As a result of this improper calculation, Smackover erroneously sold "old" crude oil as stripper well crude oil without regard to the ceiling price and in violation of 10 CFR 212.72 and 6 CFR 150.353.

2. FEA's preliminary determination is that such miscalculations resulted in overcharges totaling $1,118,705.81 due to the sale of old crude oil at stripper well crude oil exempt prices. A schedule of the leases at which the miscalculations occurred, the purchasers of the lease production, dates and amounts of overcharge is annexed to this Consent Order.

3. Smackover agrees to make price reductions totaling $1,118,705.81 plus interest to those purchasers of crude oil from the leases and in the amounts shown on the schedule annexed hereto. The entire $1,118,705.81

plus interest must be fully refunded within 36 months of the effective date of this Consent Order. Within 30 days of the effective date of this Consent Order, Smackover must advise Lion Oil Co. and Macmillan Ring Free Oil Co., Inc. to begin withholding ninety percent (90 percent) of the per barrel maximum allowable price which would otherwise be paid by said purchasers, (a) for crude oil produced from the properties operated by Smackover listed on the schedule annexed hereto, and also (b) for crude oil produced from other properties operated by Smackover in the East Field, Union County, Ark., the mineral interest of which reflects the identical ownership as that of the properties for which overcharges are alleged. After MacMillan Ring Free Oil Co., Inc. has been refunded the total amount of the alleged overcharges to which it is due, Smackover will instruct that firm to thereafter pay to Lion Oil Co. ninety percent (90 percent) of the per barrel price due for crude oil that MacMillan purchases from the East Field properties operated by Smackover, which payments will be credited against the alleged overcharges due Lion Oil Co. Such payments will continue until Smackover advises MacMillan Ring Free Oil Co., Inc., that Lion Oil Co., has been paid in full. As used herein, "maximum allowable price" is to be construed as the appropriate ceiling price computed under FEA regulations, or if applicable, the prevailing stripper exempt price for crude oil in the field in which the property is located.

4. Smackover may reduce the balance owed at any time by direct cash payment to the purchaser.

5. Smackover will include payments of interest as part of the refunds at the rate of 6 percent per annum on amounts outstanding from the date of overcharge through June 30, 1975, at the rate of 9 percent per annum on amounts outstanding from July 1, 1975 through January 31, 1976, and at the rate of 7 percent per annum on amounts outstanding thereafter until the overcharge is fully refunded. Simple interest is to be used for these computations.

6. Smackover shall supply each recipient of a price reduction with a written statement that identifies the refund as an act undertaken in compliance with this Consent Order. That statement shall advise the recipient that the refund represents a decrease in the purchaser's current month crude oil costs for purposes of FEA price regulations.

7. Smackover shall maintain separate records for all price reductions and refunds given pursuant to this Consent Order and shall make those records available to FEA for inspection upon FEA request.

8. Smackover shall certify in writing the status of all refunds and reductions to FEA every three months until completion, beginning three months after the effective date of this Consent Order. All such certifications shall be mailed to: Nick L. Kelly, Area Manager, Tulsa II Area Office, Federal Energy Administration, P.O. Box 45875, Tulsa, Okla. 74145.

9. Smackover agrees to determine within thirty days after the effective date of this Consent Order whether any further overcharges occurred at the leases in question subsequent to the period covered in FEA's audit due to the misapplication of those FEA regulations identified in this Consent Order. Smackover will certify the result of that investigation to FEA at the address set forth in paragraph 8 of this Order and present to FEA for its approval a plan for refunding any such further overcharges. If and when such plan is approved in writing by the FEA, it will become a supplement to this Consent Order, subject to all terms and conditions stated herein, and may be put into effect, without further action on the part of Smackover or the FEA, as if initially a part of this Consent Order.

10. This Consent Order does not constitute an admission by Smackover or a finding by FEA that non-compliance with or violations of FEA rules and regulations have occurred.

11. Smackover hereby offers and FEA accepts on behalf of the United States, the sum of $10,000 in compromise and settlement of all civil penalty claims of the United States which may arise against Smackover by reason of the alleged violations of FEA regulations settled in the terms of this Consent Order. Payment shall be made by certified check made payable to the Federal Energy Administration and shall be accepted subject to this Consent Order becoming final.

12. Smackover has been advised by the FEA of the correct method of determining prices for the sale of domestic crude oil under FEA regulations through its review with FEA personnel of FEA's work sheets relating to FEA's audit of Smackover and agrees to comply with those regulations in the manner described by such FEA representatives.

13. In consideration of Smackover's agreement to the aforementioned terms and conditions of this Consent Order, and upon the satisfactory performance of the refunds specified herein, the FEA will consider Smackover to be in compliance with FEA regulations up to and including December 31, 1976 or such later date as may be established in any refund plan approved pursuant to paragraph 9 above.

14. FEA reserves the right to take further remedial action in this case if FEA determines that information upon which this Consent Order is based was erroneous or that the actions of Smackover hereunder have not been undertaken in a manner consistent with the aforementioned terms and conditions of this Consent Order, or with applicable FEA rules and regulations.

15. This Consent Order shall be a final Order of the FEA having the same force and effect as a Remedial Order issued pursuant to 10 CFR 205.192. In consideration of the FEA's agreement to the terms of this Consent Order, and in accordance with 10 CFR 205.197(b), Smackover hereby expressly waives the rights to appeal or obtain judicial review of this Order.

This Consent Order shall become effective upon notice to that effect published in the FEDERAL REGISTER. Prior to its effective date, FEA will publish a notice in the FEDERAL REGISTER pursuant to § 205.197(c) that it has entered into this Consent Order and will provide not less than 30 days for members of the public to submit written comments with respect to it. After expiration of the comment period and prior to the effective date of this Consent Order, the FEA reserves the right to withdraw its Consent to this Order for any reason.

The provisions of 10 CFR 205.197 are applicable to this Consent Order and are incorporated by reference herein.

I, the undersigned, Robert E. Adair, hereby agree to and accept the foregoing Consent Order.

Dated: July 19, 1977.

ROBERT E. ADAIR,
*Partner.*

I, the undersigned, Leo D. Recknagel, hereby agree to and accept the foregoing Consent Order.

Dated: July 18, 1977.

LEO D. RECKNAGEL,
*Partner.*

I, the undersigned, a duly authorized representative of the Federal Energy Administration, hereby agree to and accept on behalf of said Administration, the foregoing Consent Order.

Dated: July 20, 1977.

WAYNE E. GIFFORD,
*Deputy Regional Administrator.*

EXHIBIT 1.—*Consent Order Smackover Producing Company*

| Lease | Purchaser | Date | Overcharge |
|---|---|---|---|
| Winn Estate, Union County, Ark | Lion Oil Co | December 1973 to December 1976 | $140,256.65 |
| Ezzell "F", Union County, Ark | do | December 1973 to December 1976 | 109,634.10 |
| Ezzell Remainder, Union County, Ark | Lion Oil Co | do | 735,452.57 |
| | MacMillan Ring Free Oil Co., Inc. | September 1973 to December 1976 | 84,125.33 |
| Paraffin Ezzell, Union County, Ark | do | December 1973 to December 1974 | 40,236.56 |
| Total | | | 1,118,705.81 |
| Overcharge to Lion Oil Co | | | 994,343.90 |
| Overcharge to MacMillan Ring Free Oil Co., Inc | | | 124,361.91 |

FIRST NATIONAL BANK
OF EL DORADO, ARKANSAS

81-91
829

JULY 19,1977 No. 239792

PAY TO THE ORDER OF FEDERAL ENERGY ADMINISTRATION $ 10,000.00

1ST. NAT'L BANK OF EL DORADO TEN THOUSAND AND 00 CTS

CASHIER'S CHECK
SMACKOVER PRODUCING CO.

Betty Murphree
AUTHORIZED SIGNATURE

:0829=0091:

[FR Doc.77-23247 Filed 8-10-77;8:45 am]

## FEDERAL MARITIME COMMISSION

### AMERICAN PRESIDENT LINES, LTD. ET AL.

#### Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 31, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

In the matter of American President Lines, Ltd., Barber Blue Sea Line, East Asiatic Co., Ltd., Fesco Pacific Container Line, Kawasaki Kisen Kaisha, Ltd., Korea Shipping Corp., Orient Overseas Container Line, Sea-Land Service, Inc., United States Lines, Inc., Zim Israel Navigation Co., Ltd., and the Trans Pacific Freight Conference; American President Lines, Ltd., Barber Blue Sea Line, Fesco Pacific Container Line, Kawasaki Kisen Kaisha, Ltd., Korea Shipping Corp., Orient Overseas Container Line, Sea-Land Service Inc., United States Lines, Inc., Zim Israel Navigation Co., Ltd., and the New York Freight Bureau.

Notice of agreements filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 10107-4, among American President Lines, Ltd., Barber Blue Sea Line, East Asiatic Co., Ltd., Fesco Pacific Container Line, Kawasaki Kisen Kaisha, Ltd., Korea Shipping Corp., Orient Overseas Container Line, Sea-Land Service, Inc., United States Lines, Inc., Zim Israel Navigation Co., Ltd., and the Trans Pacific Freight Conference, and Agreement No. 10108-3, among American President Lines, Ltd., Barber Blue Sea Line, Fesco Pacific Container Line, Kawasaki Kisen Kaisha, Ltd., Korea Shipping Corp., Orient Overseas Container Line, Sea-Land Service Inc., United States Lines, Inc., Zim Israel Navigation Co., Ltd., and the New York Freight Bureau would amend Articles 2 and 8(a) of each rate agreement to provide that at least thirty days advance notice must be given by a party to all other parties before it may alter for itself any rate, charge, classification, practice, or related taric matter agreed upon or theretofore in force.

By order of the Federal Maritime Commission.

Dated: August 8, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-23215 Filed 8-10-77;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. ER77-521]

### ARIZONA PUBLIC SERVICE CO.

#### Rate Change

AUGUST 2, 1977.

Take notice that Arizona Public Service Company (Arizona), on July 21, 1977, tendered for filing rate increases in its following FPC Electric Service Rate Schedules:

12—Electrical District No. 3
13—Electrical District No. 7
14—Maricopa County Municipal Water Conservation District No. 1
15—Roosevelt Irrigation District
16—Buckeye Water Conseravtion and Drainage District
35—Electrical District No. 6
64—Electrical District No. 1

Arizona indicates that the proposed rate changes would increase revenue from jurisdictional sales and service by $937,638.00 based on the 12-month period ending December 31, 1976.

Arizona states that the proposed changes are necessary to offset the rapidly escalating costs involved in rendering service under these schedules.

According to Arizona, copies of the filing were served upon the Company's resale customers affected by the filing and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants paties to the proceed-

ing. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23174 Filed 8-10-77;8:45 am]

[Docket No. ID-1723]

## FRANK N. BIEN

### Application

AUGUST 2, 1977.

Take notice that on July 11, 1977, Frank N. Bien, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Cardinal Operating Co., Electric Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23166 Filed 8-10-77;8:45 am]

[Docket No. CP77-518]

## COLUMBIA GAS TRANSMISSION CORP.

### Application

AUGUST 3, 1977.

Take notice that on July 25, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP77-518 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for UGI Corporation (UGI) for five years all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport natural gas for UGI from a point of interconnection between Applicant and National Fuel Gas Supply Corporation (National Supply) located near Emporium, Cameron County, Pennsylvania. It is stated that the gas so received would be redelivered to existing points of delivery from Applicant to UGI in eastern Pennsylvania.

Applicant indicates that National Supply and National Gas Storge Corporation in Docket No. CP76-492 have requested authorization to render long-term storage service for UGI, et al., and that in order to take advantage of this storage service, UGI has requested Applicant to deliver from 2,000 to 25,000 Mcf of gas per day to National Supply for storage injection and receive from National Supply from 5,000 to 35,000 Mcf per day of gas withdrawn from storage and redeliver like volumes to UGI.

Applicant states that it would deliver a portion of UGI's CDS rate schedule entitlement to National Supply during summer injection periods at the proposed point of interconnection or at such other existing points of interconnection between National Supply and Applicant as may be mutually agreed upon.

Applicant states that it would receive gas during the winter (October 1 through April 30) withdrawal period from National Supply at the proposed point of interconnection or at such other existing points of interconnection between the facilities of National Supply and Applicant as may be mutually agreed upon. Aplicant indicates that it would transport the gas so received on a best efforts basis and redeliver it to UGI at existing points of delivery in eastern Pennsylvania.

It is indicated that on the total volumes of gas delivered during the winter withdrawal period by National Supply to Applicant for UGI's account, Applicant would make a transportation charge of 22.21 cents per Mcf and would retain for company-use and unaccounted for gas a percentage of the gas so delivered, which percentage is currentyl 3.1 percent.

No construction of facilities is necessary to effect the proposed transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commision'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 this application if no petition to intervene is filed within the time required herein, if the Commisison on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commision 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23171 Filed 8-10-77;8:45 am]

[Docket No. E-8947]

## DELMARVA POWER & LIGHT CO.

### Tariff Change

AUGUST 4, 1977.

Take notice that Delmarva Power & Light Company, Delmarva Power & Light Company of Maryland and Delmarva Power & Light Company of Virginia (Delmarva) on July 25, 1977 tendered for filing proposed changes in FPC Electric Tariff Nos. 4 and 5 of Delmarva Power & Light Company, FPC Electric Tariff Nos. 4 and 5 of Delmarva Power & Light Company of Maryland FPC Electric Tariff No. 2 of Delmarva Power & Light Company of Virginia, and FPC Rate Schedule No. 35 of Delmarva Power & Light Company, all in compliance with the Commission's Order Approving Settlement issued in this docket on July 1, 1977. The proposed changes conform such Rate Schedules to the rates approved by the Commission in its July Order.

Delmarva states that copies of this filing were served upon all of Delmarva's various jurisdictional customers. Delmarva requests waiver of notice in order that these compliance filings may be accepted for filing at the earliest possible date.

Any person desiring to be heard or to protest said application should file a protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such protests should be filed on or before August 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23170 Filed 8-10-77;8:45 am]

[Docket No. ID-1517]

## RALPH D. DUNLEVY

### Application

AUGUST 2, 1977.

Take notice that on June 28, 1977, Ralph D. Dunlevy, filed an application pursuant to Section 305(b) of the Fed-

eral Power Act to hold the following positions.

Senior Vice President, Ohio Valley Electric Corp., Electric Utility.
Senior Vice President, Indiana-Kentucky Electric Corp., Electric Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23165 Filed 8-10-77;8:45 am]

[Docket No. ER77-367]

## DUKE POWER CO.

### Supplement to Electric Power Contract

AUGUST 4, 1977.

Take notice that Duke Power Company (Duke Power) tendered for filing on July 14, 1977, a supplement to the Company's Electric Power Contract with South Carolina Electric and Gas Company. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule No. 262.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for an increase in capacity at Delivery Point No. 1 and Delivery Point Temp No. 1. Duke Power indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power requests waiver of the Commission's notice requirements to allow for an effective date of June 20, 1977.

Duke Power states that a copy of this filing was mailed to the South Carolina Electric and Gas Company and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become to party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23177 Filed 8-10-77;8:45 am]

[Docket No. RP76-87]

## INTER-CITY MINNESOTA PIPELINES LTD.

### Order Approving Pipeline Rate Settlement

AUGUST 1, 1977.

On May 5, 1977, the Presiding Administrative Law Judge certified to the Commission for consideration and disposition a proposed Stipulation and Agreement which, if approved, would resolve all issues in this proceeding. As stated below the Commission finds that the proposed settlement is reasonable and should be approved.

On April 15, 1976, Inter-City Minnesota Pipelines Ltd. (Inter-City) tendered for filing proposed tariff changes which would increase annual jurisdictional revenues by $385,300 based on the twelve months ended December 31, 1975, as adjusted. By order issued May 28, 1976, the Commission accepted the filing and permitted the rate increase to become effective, subject to refund, on June 2, 1977, after a one day suspension. Notice of the certification was issued on May 17, 1977, providing for comments to be filed on or before June 8, 1977. None have been received. The Commission staff stated its support for the proposed settlement at the hearing held on May 5, 1977 to introduce the proposed Stipulation and Agreement into the accord.

The settlement is based on an overall cost of service of $17,346,447 and provides for a jurisdictional cost of service of $9,094,204, which results in a reduction of approximately $6,400 from the jurisdictional cost of service proposed originally. The settlement reflects an overall rate of return of 12.50 percent including a rate of return on common equity at 14.0 percent.[1] The settlement depreciation rate is 4.1 percent.

[1] The settlement cost of service and capitalization are set out in Appendices A and B to this order.

Based on a review of the record in this proceeding including the settlement agreement itself, the Commission finds that the proposed Stipulation and Agreement represents a reasonable resolution of the issues in this proceeding in the public interest, and that the Stipulation and Agreement should be approved and adopted as hereinafter ordered.

The Commission orders: (A) The Stipulation and Agreement certified on May 5, 1977, is incorporated herein by reference and is approved and adopted.

(B) Within thirty days, Inter-City shall file revised tariff sheets in accordance with the settlement agreement and this order.

(C) As soon as practical, but not later than 60 days after the date of this order, Inter-City shall refund all amounts collected in excess of the settlement rates, together with interest at the rate of 9 percent per annum. Inter-City shall within 10 days thereafter submit a report of the refunds and interest to the Commission.

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the staff or any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against Inter-City or any other person or party.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
*Acting Secretary.*

APPENDIX A.—*Inter-City Minnesota Pipelines Ltd., Inc. Docket No. RP76-87—Overall cost of service under pipelines' request for rate increase and settlement*

| | Settlement | Requested |
|---|---|---|
| Cost of gas | $16,583,638 | $16,439,770 |
| Operation and maintenance expenses | 81,489 | 81,489 |
| Depreciation | 107,420 | 12,,410 |
| Taxes other than income taxes | 136,613 | 136,613 |
| Income taxes | 137,733 | 199,272 |
| Return | 299,554 | 321,743 |
| Overall cost of service | $17,346,447 | $17,300,297 |
| Jurisdictional cost of service | 9,094,204 | 9,100,613 |

APPENDIX B.—*Inter-City Minnesota Pipelines Ltd. Docket No. RP76-87—Capitalization and Rate of Return*

| Line No. | Description | Percent | Cost or allowance, percent | Return, percent | Line No. |
|---|---|---|---|---|---|
| | (a) | (b) | (c) | (d) | |
| 1 | Debt | 63.02 | 11.62 | 7.32 | 1 |
| 2 | Equity | 36.98 | 14.0 | 5.18 | 2 |
| 3 | Total | 100.00 | | 12.50 | 3 |

[FR Doc.77-23162 Filed 8-10-77;8:45 am]

[Docket No. ID-1804]

## LARRY G. MCMANUS

### Application

AUGUST 2, 1977.

Take notice that on January 18, 1977, Larry G. McManus, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Assistant Controller, The Cincinnati Gas & Electric Company, Public Utility.
Assistant Controller, The Union Light, Heat and Power Company, Public Utility.
Assistant Controller, Miami Power Corporation, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23164 Filed 8-10-77;8:45 am]

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[Project No. 2188]

## THE MONTANA POWER CO.

### Notice Extending Time for Filing Comments, Protests, and Petitions to Intervene

AUGUST 2, 1977.

On July 21, 1977, U.S. Representative Max Baucus, on behalf of a number of his constituents, filed a request to extend the time within which the public may file comments with reference to the issue of public access to the Upper Holter Reservoir, Project No. 2188. By Commission Notice issued June 6, 1977, the date established for the filing of such comments was August 15, 1977.

The instant request stresses the importance of the question of access to the reservoir since such access directly influences the area's land use patterns, wildlife, environment, and scenic and historic qualities. It states that additional time is needed in order to insure public awareness and involvement in this proceeding.

Upon consideration, notice is hereby given that the date for filing comments with reference to the issue of public access to the Upper Holter Reservoir is extended to and including October 3, 1977. Comments should be filed with the Secretary, Federal Power Commission, Washington, D.C. 20426. Any person wishing to file a protest or petition to intervene in this proceeding must make such filing in accordance with the Commission's Rules of Practice and Procedure, on or before October 3, 1977.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-23178 Filed 8-10-77;8:45 am]

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[Docket No. ER77-401]

## OTTER TAIL POWER CO.

### Power Pool Agreement

AUGUST 4, 1977.

Take notice that the Otter Tail Power Company (Otter Tail) on July 11, 1977, tendered for filing revisions in Service Schedule B, of it's Upper Mississippi Valley Power Pool Agreement which are proposed to become effective May 1, 1977.

Otter Tail indicates that the filing provides for revisions in the Demand Rate of Service Schedule B, Seasonal Participation Power Interchange Service.

According to Otter Tail the filing has been served upon the appropriate state regulatory agencies in states that the Upper Mississippi Valley Power Pool is providing service.

Otter Tail requests waiver of the Commission's notice requirements to allow for an effective date of May 1, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before August 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23163 Filed 8-10-77;8:45 am]

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[Project No. 943]

## PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

### Further Extension of Time

AUGUST 4, 1977.

On July 19, 1977, Public Utility District No. 1 of Chelan County, Washington (Applicant), Licensee for the Rock Island Hydroelectric Project; FPC No. 943, filed a motion to further extend the time for filing its revised application for approval of an Exhibit R.

The motion states that the Court of Appeals of the State of Washington has ordered Applicant to arbitrate the scope and content of the Exhibit R under its power contract with Puget Sound Power and Light Company. Therefore, Applicant states that it will be unable to prepare the revised Exhibit R in time to meet the August 1, 1977, deadline set by Commission Notice issued April 12, 1977.

In answer to Applicant's motion, filed July 27, 1977, Staff Counsel states that good cause has been shown to grant the requested extension, without reference to the possible penalties mentioned in the April 12 Notice.

Notice is hereby given that a further extension of time is granted to and including October 3, 1977, within which Applicant shall file a revised application for approval of an Exhibit R for Project No. 943.

By direction of the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23172 Filed 8-10-77;8:45 am]

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[Docket No. ID-1805]

## BEN T. RAY

### Application

AUGUST 2, 1977.

Take notice that on January 31, 1977, Ben T. Ray, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President & Director, Columbus and Southern, Ohio Electric Company, Public Utility.
Director, Ohio Valley Electric Corporation, Public Utility.
Director, Indiana-Kentucky Electric Corporation; Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must filed a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23167 Filed 8-10-77;8:45 am]

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[Project No. 516]

## SOUTH CAROLINA ELECTRIC & GAS CO.

### Issuance of Annual License(s)

AUGUST 3, 1977.

On January 30, 1975, South Carolina Electric & Gas Company, Licensee for the Saluda Project No. 516, located in Lexington, Newberry, Richland, and Saluda Counties, South Carolina, near the City of Columbia on the Saluda River and its tributaries, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 516 was issued effective August 5, 1927, for a period ending August 4, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to South Carolina Electric & Gas Company.

Take notice that an annual license is issued to South Carolina Electric & Gas Company for the period August 5, 1977 to August 4, 1978, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Saluda Project No. 516 subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before August 4, 1978, a new annual license will be issued each year therafter, effective August 5 of each year, until such time as Federal Takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23169 Filed 8-10-77;8:45 am]

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[Docket No. CI77-640]

## SUN OIL CO. (DELAWARE)

### Limited-Term Certificate Application

AUGUST 4, 1977.

Take notice that on July 12, 1977, Sun Oil Company (Applicant) P.O. Box 20, Dallas, Texas 75221, filed in Docket No. C177-640 an application pursuant to Section 7(c) of the National Gas Act for a limited-term certificate of public convenience and necessity, with pregranted abandonment, for the sale of gas from certain wells in the Bassfield Field, Jefferson Davis County, Mississippi, to Texas Eastern will transport such gas in (Texas Eastern) under a contract dated June 29, 1977. Applicant states that Texas Eastern will transport such gas in interstate commerce and resell it.

Applicant states that Texas Eastern has an existing gas supply emergency on its system. The nature and extent of Texas Eastern's need for emergency gas has been or will be separately demonstrated by Texas Eastern.

The natural gas to be sold to Texas Eastern will be sold pursuant to a short-term contract which is filed concurrently herewith as a rate schedule. As reflected by the contract, the sale will be on a limited-term basis for a period of one year beginning on the date satisfactory authorization from the Commission is received or such later date as is permitted by present contractual commitments. The certificate application seeks authority to sell to Texas Eastern volumes estimated at a daily rate of 10,000 Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if no petition to intervene is filed within the time herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for lease to intervene is timely filed, or if 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 Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23173 Filed 8-10-77;8:45 am]

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[Docket No. CP77-516]

## TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

### Application

AUGUST 4, 1977.

Take notice that on July 22, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511 Houston, Texas 77001, filed in Docket No. CP77-516 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas for Martin Marietta Aluminum, Inc. (Martin Marietta), an existing industrial customer of one of Texas Gas Transmission Corporation's (Texas Gas) distributor-customers, Western Kentucky Gas Company (Western Kentucky), for 2 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Martin Marietta has entered into a contract with Equitable Petroleum Corporation (Equitable) for the purchase of gas produced from the Bayou Biloxi Field, St. Bernard Parish, Louisiana, in order to moderate the effects of curtailment imposed upon Martin Marietta, and that Martin Marietta would pay Equitable for such gas a total initial price of $2.18 per Mcf, which price would escalate to $2.33 per Mcf one year after initial deliveries. It is further stated that in order to make the subject gas available to it Martin Marietta has made arrangements with Applicant and Texas Gas for the transportation and delivery of such gas into Western Kentucky's distribution system for delivery by Western Kentucky to Martin Marietta at its Lewisport, Kentucky plant.

Applicant proposes (1) to receive from Equitable at an interconnection of Applicant and Equitable's facilities in St. Bernard Parish, Louisiana, up to a Maximum Daily Quantity (MDQ) of 2,427 Mcf, together with supplemental volumes for Applicant's system fuel and use requirements associated with the transportation service, and (2) through the utilization of existing facilities, to transport and deliver to Texas Gas at the tailgate of Champlin's Gasoline Plant at Carthage, Panola County, Texas, for the account of Martin Marietta, equivalent daily volumes of natural gas exclusive of such fuel and use volumes, up to said MDQ. It is asserted that such transportation service would enable Martin Marietta to receive gas for plant protection and process needs at its Lewisport, Kentucky plant, where Martin Marietta produces aluminum coils and sheets for the fabrication of various consumer products.

It is indicated that the proposed service would be rendered pursuant to a transportation agreement dated July 15, 1977, between Applicant and Martin Marietta.

It is indicated that Martin Marietta would pay Applicant each month for the proposed transportation service (1) a demand charge to be determined by multiplying $1.08 by the MDQ, less any demand charge credit provided therein, if applicable; and (2) a volume charge equal to 13.81 cents multiplied by (a) the total of the daily volumes delivered by Applicant during such month or (b) the number of days in said month multiplied by 66⅔ percent of the MDQ, whichever is greater, less any applicable annual minimum bill credit as provided therein. Applicant states that it would retain each day a volume of gas equal to 3 percent of the volume received for transportation on such day.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commissions Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regu-

lations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commissions 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23176 Filed 8-10-77;8:45 am]

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[Docket No. CP77-517]

## TEXAS GAS TRANSMISSION CORP.

### Application

AUGUST 4, 1977.

Take notice that on July 22, 1977, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP77-517 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for 2 years of up to 400 M ft³ of natural gas per day, on an interruptible basis, for Fruehauf Corporation (Fruehauf), an existing industrial customer of Memphis Light, Gas and Water Division (Memphis), one of Applicant's resale customers, all as more fully set forth in the application which is on file with the mission and open to public inspection.

It is indicated that the natural gas proposed to be transported by Applicant for ultimate delivery to Fruehauf's plant located in Memphis, Tennessee, would be produced from certain wells wholly owned by Fruekel, Inc. (Fruekel), the energy-source subsidiary of Fruehauf, which wells are located in Tuscarawas and Guernsey Counties, Ohio. It is stated that the subject gas would be received by Applicant for the account of Fruehauf by displacement from Columbia Gas Transmission Corporation (Columbia) at an existing interconnection located near Lebanon, Ohio, where Applicant and Columbia both have facilities.

Applicant states that it would simultaneously redeliver the volumes received for the account of Fruehauf up to 400 M ft³ per day at 14.73 lb/in²a to Memphis, at an existing point or points of delivery. In no event would Applicant be obligated to deliver on any one day an aggregate amount of more than the Contract Demand of 379,615 M ft³ of natural gas at 14.73 lb/in²a through all points of delivery by Applicant to Memphis, it is said. It is indicated that no new facilities are necessary to effectuate the proposed transportation service.

Applicant indicates that it would collect an initial charge of 3.15 c/M ft³ (at 14.73 lb/in²a) for all quantities of gas transported and delivered to Memphis for the account of Fruehauf.

It is stated that Fruehauf is engaged primarily in the manufacture and sale of transportation equipment and the sale of parts and components for such equipment, such as truck trailers, truck bodies, containers, and chassis for transportation of cargo by truck, rail, or ship. It is indicated that Fruehauf would use the subject gas for Priority 2 uses: For the clean burning fuel requirements for its Memphis Plant, and in the direct gas fired ovens, make-up air and related operations wherein a clean burning fuel is required and necessary. Technology, at this time, does not permit the burning of alternate fuels, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23175 Filed 8-10-77;8:45 am]

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[Docket No. CP77-528]

## TEXAS GAS TRANSMISSION CORP.

### Application

AUGUST 3, 1977.

Take notice that on July 26, 1977, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP77-528 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, on an interruptible basis, for South Jersey Gas Company (South Jersey) for 2 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport natural gas, on an interruptible basis, for South Jersey pursuant to a transportation service agreement dated June 7, 1977, between Applicant and South Jersey. Applicant indicates that South Jersey has entered into a gas purchase contract with its producing affiliate, South Jersey Exploration Company (South Jersey Exploration), for the purchase of volumes of natural gas to be produced from certain leasehold interests presently owned or controlled by South Jersey Exploration in North Jefferson Island Field, Iberia Parish, Louisiana. It is further indicated that South Jersey Exploration would charge Applicant for all gas delivered hereunder, the base price of $1.42 for M ft³, escalating by $0.01 per M ft³ per quarter commencing on October 1, 1976, to which would be added, for deliveries in Louisiana, $0.0686 per M ft³ as reimbursement for tax payable by South Jersey Exploration to the state of Louisiana and, for deliveries made in Texas, $0.1155 per M ft³ as reimbursement for tax payable by South Jersey Exploration to the state of Texas *and*, unless otherwise stated in Exhibit B to the gas purchase contract, a gathering charge of $0.004 and $0.005 per M ft³ for deliveries made in Texas and Louisiana, respectively.

Applicant states that the subject gas would be delivered to it through existing facilities owned by Applicant on its Jefferson Island 4-inch pipeline located near Delcambre, Iberia Parish, La., and that Applicant would simultaneously redeliver volumes of natural gas received for South Jersey's account up to 500 M ft³/d at 14.73 lb/in²a to Transcontinental Gas Pipe Line Corporation (Transco) at an existing exchange point with Transco located near Mamou, Evangeline Parish, La., or at such other mutually agreeable existing points of exchange between Applicant and Transco. No new facilities

are necessary in order to effectuate the proposed transportation service, it is said.

Applicant indicates that it would retain a volume equal to 0.38 percent above the delivered volume as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which the delivery by Applicant would be made, i.e., Zone SL. Applicant states that it would collect an initial charge of 4.67 c/M ft³ (at 14.73 lb/in²a) for all quantities of natural gas transported and delivered to Transco for the account of South Jersey.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-23168 Filed 8-10-77;8:45 am]

## FEDERAL RESERVE SYSTEM

[Reg. Q; Docket No. R-0108]

### INTEREST ON DEPOSITS

#### Order Granting Temporary Suspension of Early Withdrawal Penalty

The Board of Governors has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks (12 CFR § 217.4(d)) for depositors affected by the severe storms and flooding beginning about July 19, 1977, in the Commonwealth of Pennsylvania. On July 21, 1977, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. § 5141) and Executive Order 11795 of July 11, 1974, the President designated the following counties of the Commonwealth of Pennsylvania a major disaster area: Bedford, Cambria, Clearfield, Indiana, Jefferson, Somerset, and Westmoreland. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank wherever located to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has, in fact, suffered property or other financial loss in the disaster area as a result of the severe storms and flooding. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed application describing fully the disaster-related loss. This application should be approved and certified by an officer of the bank. This action will be retroactive to July 21, 1977, and will remain in effect until 12 midnight January 31, 1978.

Section 19(j) of the Federal Reserve Act (12 U.S.C. § 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4 (d) of Regulation Q for the benefit of depositors suffering disaster-related losses within those geographical areas of the Commonwealth of Pennsylvania officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the flooding in the designated counties of Pennsylvania, the Board finds that good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and that public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, the Board finds that there is good cause to make the action effective immediately.

By order of the Board of Governors, effective August 3, 1977.

GRIFFITH L. GARWOOD,
*Deputy Secretary of the Board.*

[FR Doc.77-23186 Filed 8-10-77;8:45 am]

[1] Section 217.4(d) of Regulation Q provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit three months of interest payable at such rate.

## GENERAL SERVICES ADMINISTRATION

### Federal Supply Service

[GSA Bulletin FPR 25, Supplement 1]

### FEDERAL PROCUREMENT

#### Cost Accounting Standards Administration—Interim Guidance

*Correction*

In FR Doc. 77-20188, appearing at page 36301 in the issue of Thursday, July 14, 1977 the following changes should be made:

1. On page 36302, first column, fifth line from the bottom, insert a comma after "e.g.".

2. On page 36303, third column, sixteenth line down, the word "before" should read "after".

3. On page 36304, middle column, the title of Attachment A should read, "The Effects of CAS 410 upon the allocation and allowability of G&A expenses".

4. On page 36304, third column, second full paragraph, sixth line down, the word, "prefactory" should read, "prefatory".

5. On page 36305, the second illustration title reading "PRE-CAS 410" should read, "POST-CAS 410".

6. On page 36306, first column under the heading, "Background" second full paragraph, omit the first word in line seven.

7. On page 36306, third column, under the heading, "Background" the second and fourth paragraphs should be in quotation marks.

8. On page 36307, middle column, under the heading, "Discussion" second paragraph, first line, "CAB 402" should read, "CAS 402".

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Education

### NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

#### Public Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the Nonmajority/Minority Task Force. It also describes the func-

tions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(21)). This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: August 26, 1977; Los Angeles, Calif.

ADDRESS: Room 310, Hyatt Regency Los Angeles Hotel, 711 South Hope Street, Los Angeles, Calif.

FOR FURTHER INFORMATION CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street NW., Suite 710, Washington, D.C. 20005; Phone 202-724-0221.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII, as amended by Pub. L. 93-380 and Pub. L. 94-482). The Council is established to: (1) advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 9:30 a.m. until 4:30 p.m. Presentations will be made by various ESAA grant recipients concerning the need for such a program. Inquiry will be made with regard to how well the various racial and ethnic groups involved in ESAA projects are having their specific needs addressed. Discussions concerning ESAA eligibility requirements as pertaining to nonmajority/minority districts will be a major focus.

Requests for oral presentations by the public before the Task Force must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director. In the event that the tentative agenda is completed prior to the projected time, the Task Forces will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street NW., Suite 710, Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C., on August 9, 1977.

LEO A. LORENZO,
*Executive Director.*

[FR Doc.77-23349 Filed 8-10-77;8:45 am]

## NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

AGENCY: Office of Education National Advisory Council on Women's Educational Programs.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Federal Policy and Practices Committee of the National Advisory Council on Women's Educational Programs. It also describes the functions of the Council. Notice of the meeting is required pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATE: August 30, 1977, 9 a.m. to 5 p.m.

ADDRESS: 1832 M Street NW., Suite 821, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Kathleen Maurer, National Advisory Council on Women's Educational Programs, 1832 M Street NW., Suite 821, Washington, D.C. 20036; telephone 202-653-5848.

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) made such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under section 408 of Pub. L. 93-380.

The meeting of the Federal Policy and Practices Committee will be open to the public. It will be held on August 30 from 9 a.m. to 5 p.m. at 1832 M Street NW., Suite 821, Washington, D.C. The proposed agenda includes review of the status of current projects and recommendations and the establishment of priorities for the Federal Policy and Practices Committee.

Records will be kept of all Council proceedings and will be available for public inspection at the Council offices at Suite 821, 1832 M Street NW., Washington, D.C.

Signed at Washington, D.C., on August 8, 1977.

JOY R. SIMONSON,
*Executive Director.*

[FR Doc.77-23231 Filed 8-10-77;8:45 am]

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### Office of Human Development

## OFFICE OF NATIVE AMERICAN PROGRAMS

### Provison of Technical Assistance to Native American Organizations Not Currently Funded by the ONAP

Notice is hereby given that interested Native American organizations not currently funded by or through the Office of Native American Programs (ONAP) may be eligible to receive technical assistance from ONAP-funded contractors. A small portion of mandays of each recently awarded contract has been reserved in order to make services available to Native American organizations which are not presently grantees of the ONAP. Specific criteria to be considered in determining eligibility are included in this Notice. A maximum of 10 mandays of services can be provided to each eligible organization.

1. *Program purpose.* In promoting economic and social self-sufficiency for Native Americans, section 804 of ONAP's enabling legislation, Pub. L. 93-644, Title VIII, the Native American Programs Act, authorizes the provision of technical assistance "in developing, conducting and administering projects under this title." Technical assistance may be provided to organizations not presently funded by ONAP if it is directed toward the development of either a particular project or organizational capabilities preparatory to potential funding under Title VIII, section 803.

2. *Eligibility criteria.* The specific criteria by which organizations shall be determined to be eligible for ONAP's technical assistance are:

1. The organization must be a public or private non-profit Native American organization, not already supported by or through a current ONAP grant, whose purpose is to promote the economic and social self-sufficiency of the Native American community it represents.

2. It must be an organized group with a distinct membership that represents a documentable population of at least 350 Native Americans. (This population limit may be waived in the case of an organization serving as lead agency in the formation of an intertribal organization or consortium which will ultimately serve more than 350 Native Americans.)

3. It must have a governing body that represents and is formally approved by the documented population.

4. Validation of this population is available through one of the following sources of documentation:

(a) U.S. Census Bureau statistics.

(b) Population figures accepted by a Federal or State Agency.

(c) Population figures derived from a survey conducted by approved methodological principles.

5. There must be adequate assurance that the provision of the requested technical assistance would result in one of the following:

(a) Significant development of organizational capabilities preparatory to potential funding under Title VIII and/or

(b) Significant development of a particular project fundable under Title VIII.

3. *Documentation materials.* Any interested party who wishes to respond to this Notice should submit at least the following materials in relation to the above-mentioned eligibility criteria:

(1) The name, address, and phone number of your organization and the name and title of a contact person.

(2) A brief description of the type of organization or purpose of the group requesting assistance.

(3) A brief description of the service population, including the number of persons and source of this enumeration and specifying whether any part of the service population is currently being served by or through ONAP funds.

(4) A listing of the member tribes/subgroups (if applicable).

(5) Copies of the Articles of Incorporation/Constitution and Bylaws.

(6) Names and titles of tribal officials/organization officers.

(7) A brief description of current funding sources/purpose/levels.

(8) A brief description of the major need areas of the organization, including how the organization is attempting to address these needs and how the technical assistance requested relates to these needs.

(9) A complete description of the amount and type of technical assistance needed and how it would be used to develop a project fundable under Title VIII or enhance organizational capabilities, in preparation for seeking funding under Title VIII.

(10) A description of the types of technical assistance currently provided to your organization and from what sources the technical assistance is being provided.

4. *Submission of documents.* All documentation submitted pursuant to this Notice should be addressed to Gerry Farrell or Nancy Story, Office of Native American Programs, Room 357–G, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201. Submissions will be considered through December 30, 1978, or until the mandays reserved for this purpose are exhausted.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs.)

Dated: July 28, 1977.

DOMINIC J. MASTRAPASQUA,
*Acting Director, Office of Native American Programs.*

Approved: August 8, 1977.

ARABELLA MARTINEZ,
*Assistant Secretary for Human Development.*

[FR Doc.77-23219 Filed 8-10-77;8:45 am]

## RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM

### Arbitration Panel Decision

Notice is hereby given that on June 13, 1977, a decision of the arbitration panel in the matter of the U.S. Postal Service and the North Carolina State Department of Human Resources, Division of Services for the Blind was rendered.

As required by section 6(c) of the Randolph-Sheppard Act Amendments of 1974, Title II of Pub. L. 93-516 (20 U.S.C. 107d-2(c)), this decision, as set forth below, is published in its entirety.

Dated: August 5, 1977.

JAMES F. GARRETT,
*Acting Commissioner, Rehabilitation Services Administration.*

Approved: August 8, 1977.

ARABELLA MARTINEZ,
*Assistant Secretary for Human Development Services.*

ARBITRATION AWARD—RANDOLPH-SHEPPARD ACT

In the matter of U.S. Postal Service and North Carolina State Department of Human Resources, Division of Services for the Blind.

For the Postal Service: William Neel, Esq.

For the State of North Carolina: Isaac T. Avery III, Esq.

Panel of Arbitration: W. Allen Sanders, Panel Member; C. Coleman Cates, Panel Member; Carl A. Warns, Jr., Chairman.

Upon receipt of a complaint filed under section 5 of the Randolph-Sheppard Act, the Secretary of the Department of Health, Education, and Welfare, hereinafter called "HEW," convened an Arbitration Panel. A hearing was held in Charlotte, N.C., on November 9, 1976. Equal opportunity was given all parties for the preparation and presentation of evidence, examination and cross examination of witnesses and oral argument. A transcript was made of the evidence, post hearing and reply briefs were filed. Following the receipt of the transcript and briefs, an Executive Session was held in Charlotte, N.C., on May 4, 1977.

OPINION OF THE ARBITRATION PANEL

The U.S. Postal Service opened a General Mail Facility in Charlotte, N.C., at Mulberry Church Road and South Interstate 85 in the latter part of 1974. After an exchange of proposals, the Postal Service awarded the contract for food services for the General Mail Facility and for certain substations in the area to Canteen Corp.

On May 3, 1976, the Honorable Rufus L. Edmisten, Attorney General of North Carolina, filed a complaint with the Honorable David T. Mathews, Secretary, Department of Health, Education, and Welfare, pursuant to the interim arbitration procedures of the Randolph-Sheppard Act contending that the priority for visually handicapped in providing food services under the Act had been denied. It is significant to the findings of this Panel to note that at the time this dispute arose, all parties were operating under proposed regulations issued by the Department of Health, Education and Welfare as a guide to interpretation of the Randolph-Sheppard Act Amendments of 1974. It is noted that Section 1b of the Act mandates that regulations be promulgated to provide for the appropriate implementation of the Act with special reference to the priority to be afforded the blind vendors under this program in the operation of vending facilities on Federal property. Section 7(e) of the Statute reads:

"The Secretary through the Commissioner shall prescribe regulations to establish a priority for the operation of cafeterias on Federal property by blind licensees when he determines, on an individual basis and after consultation with the head of the appropriate installation, that such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees whether by contract or otherwise.

Lacking definitive regarding "the operation of cafeterias" the parties were not in agreement at the time of the hearing of this case as to what constituted a "cafeteria" and indeed, there was some dispute as to what was a "reasonable cost with food of a high quality comparable to that currently provided to employees whether by contract or otherwise." As those areas not constituting a "cafeteria" the Statute reads:

"(b) In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this Act; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

"(1) The priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 7 of this Act to achieve and protect such priority), and

"(2) Wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

"Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interest of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the FEDERAL REGISTER."

One of the principal contentions made by the Postal Service in this case was that lacking the binding and definitive regulations required by Congress, the present dispute was not "arbitrable." The Postal Service asserted in its brief that the Randolph-Sheppard Act has no effect until regulations have been promulgated by HEW "to establish a priority." It contended that no decision in arbitration validly can be made until the Secretary publishes regulations establishing the priority. (From the Postal Service's brief, p. 6.) The State of North Carolina contends that the dispute is arbitrable and that the challenge here is to actions taken by the Postal Service under a statute, which clearly expresses an intent and expectation by Congress that priority be given visually handicapped represented by an appropriate State agency, not in dispute in this case.

There were other points of contention in this case. For example, North Carolina indicated a desire to subcontract the canteen services in the satellite locations which the Postal Service concluded was not authorized by the Statute. Additionally, at the time that the proposal of North Carolina was rejected, the Postal Service stated in writing that contracting with North Carolina under the cir-

cumstances would deprive the Postal employees of certain funds and benefits which they had traditionally received through vending facilities. At the arbitration hearing, the Postal services conceded that this was not a valid basis for rejection of a contract on behalf of the visually handicapped under the Randolph-Sheppard Act. And still further, there was a dispute in the evidence regarding the "competitive" nature of the bid of the State of North Carolina.

Following the hearing of this case, and exchange of briefs, and prior to the Executive Session of the Panel, HEW on March 23, 1977 issued its Rules and Regulations. Included in these Rules is a definition of cafeteria which reads:

"Par. 1369.1 Terms.

* * * "(d) 'Cafeteria' means a food dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where the customer serves himself from displayed selections. A cafeteria may be fully automatic or some limited waiter or waitress service may be available and provided within a cafeteria and table or booth seating facilities are always provided."

Serious consideration has been given by this Arbitration Panel to the Postal Service's initial contention that lacking the binding regulations required by Congress, this Panel has no jurisdiction to hear this dispute. In plain terms, the Postal Service is contending that where binding and implementing regulations are required by Congress to give a statute of this kind vitality and specific direction, the "law" is incomplete. On the other hand, this Panel recognizes and respects the accommodation of complex, conflicting interests which HEW faced in promulgating these regulations. Delay was understandable. We are not in an area of commercial transactions with judicial precedents firmly established by courts of law. We have before us a philosophy reflecting essential human values. That philosophy is clearly expressed in the Act itself even though as a practical matter everyone involved needed the guidance of HEW regulations for effective and meaningful implementation. It is the opinion of this Panel that the final regulations issued after the hearing of this case cannot govern this decision. The Regulations are, however, persuasive authority and the best evidence of a reasonable interpretation by those given the task by Congress based upon their expertise and experience to give meaningful direction.

The following therefore are our findings and conclusions:

1. This grievance is within the jurisdiction of the Arbitration Panel.

2. Even though the Act does not require all employees servicing a facility to be blind, once a contract is negotiated and accepted under this Act, the State Agency cannot subcontract the services at an individual facility if no blind employees are involved.

3. The principal eating facility at the General Mail Facility at Mulberry Church Road and South Interstate 85 in Charlotte is a "cafeteria." Therefore, the provisions of section 7(e) of the Act become applicable. That is, the standard to be applied is whether "such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees whether by contract or otherwise."

4. The fact that "no commission * * * be paid to the Employees Social and Welfare Fund * * *" (from the Contracting Officer's letter to the North Carolina Department of Human Resources rejecting that proposal, letter dated April 14, 1976) is not a basis for denying employment opportunities governed by the Randolph-Sheppard Act.

5. It is not necessary that the prices offered in a proposal be the lowest offered. It is the opinion of this Panel that as indicated in the Statute, the proposals must be in a competitive range comparable to the costs in the area in question and compared with similar facilities.

6. We find no evidence of bad faith on behalf of either the State of North Carolina or the Postal Service. However, notwithstanding that the after-the-fact evidence and justification offered by the Postal Service at this hearing could conceivably provide a satisfactory basis for its actions consistent with the expectations of Congress and HEW in fulfilling the obligation to give priorities to the visually handicapped, the criteria used by the Postal Service at the time as reflected in its letter of April 14, 1976, rejecting the State's proposal was in part in error. In this context, it is our conclusion that those who are protected by the Act should have their priority respected and implemented by decision making which reflects, at the time action is taken, a reasonable accurate application of the spirit as well as the letter of the congressional mandate. Therefore, in order to make certain that only relevant criteria are followed in this matter, we rule that the present contract between the Postal Service and Canteen must be terminated, without cost, on 60 days notice after June 14, 1977. During these 60 days, the Postal Service must renegotiate a new contract for both the cafeteria and other facilities and in such negotiation of authorization for the operation of a cafeteria and vending facility on Federal property, priority will be given to blind persons licensed by a State Agency as defined by the Randolph-Sheppard Act, as amended, and the Regulations promulgated by the Department of Health, Education, and Welfare on March 23, 1977.

W. ALLEN SANDERS,
C. COLEMAN CATES,
*Panel of Arbitration Members.*
CARL A. WARNS, Jr.,
*Chairman, Panel of Arbitration.*

[FR Doc.77-23214 Filed 8-10-77;8:45 am]

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[Program Announcement No. 13627-774]

## REHABILITATION RESEARCH AND TRAINING CENTERS

### Announcement of a Grant for FY '77

The Rehabilitation Services Administration, Office of Human Development, announces that applications for a replacement Rehabilitation Research and Training Center in Region IX will be accepted until August 30, 1977, from institutions of higher education or from States and public or nonprofit agencies and organizations, including rehabilitation facilities, which will collaborate with an institution of higher education. Applicants will compete for a Fiscal Year 1977 grant under the Rehabilitation Research and Training center program authorized by Section 202(b)(1) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762).

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and considered for an award.

Regulations applicable to this program were published in the Federal Register in Subparts, A and D of Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR, Part 1362) on November 25, 1975.

*Scope of this Program Announcement.*—This program announcement identifies the general program objectives and funding priorities of the Rehabilitation Research and Training Center Program for Fiscal Year 1977.

A. *Program Purpose.* The purpose of the Rehabilitation Research and Training Center program is to provide coordinated and advanced programs of research in rehabilitation and training of rehabilitation research personnel, including, but not limited to graduate training.

B. *Eligible Applicants.* Any institution of higher education having a well-recognized rehabilitation research and training program or any State or public or nonprofit agency or organization, including a rehabilitation facility, which will collaborate with such an institution of higher education may apply for a grant under this announcement. Applicants must be located in HEW Region IX (California, Arizona, Nevada, Hawaii, Guam, Trust Territory of Pacific Island, American Samoa).

C. *Available Funds.* The Rehabilitation Services Administration expects to establish one Rehabilitation Research and Training Center with the approximately $300,000 available.

D. *Program Objectives and Priorities for Funding.* The major objectives of the Rehabilitation Research and Training Center program are: (1) The conduct of programs of rehabilitation research aimed toward the discovery of new knowledge which will improve rehabilitation methods, management and service delivery systems, alleviate or stabilize handicapping conditions, and promote maximum physical, social and economic independence, and (2) The conduct of a program of teaching and training to assist in preparing and increasing the number of research and other rehabilitation related professional and non-professional personnel where manpower shortages exist; to widely disseminate and promote the application of new knowledge from research findings; to incorporate rehabilitation education into all rehabilitation related university undergraduate and graduate curricula; and to improve the skills of existing rehabilitation personnel and the effectiveness of rehabilitation services through the media of seminars, workshops, study groups, short and long term in-service and continuing education programs.

In addition to these major objectives, the Centers' research should be programmatic focusing on one of a limited number of high priority core area problems requiring in-depth study which will be sequentially pursued and whose findings will have near-term relevance and application to the rehabilitation of severely handicapped persons. Two major areas will be given priority in the current competition. They are: (1) *Medical Rehabilitation* providing a continuing framework for clinical research and training in rehabilitation and encompassing the necessary medical and other services es-

sential in carrying out a comprehensive program of patient/client care and rehabilitation, or (2) *Sensory Rehabilitation* focusing on the needs of the deaf with special emphasis on a core relating to psychological and psychiatric problems associated with deafness to help the deaf attain their highest functioning level and use their potential ability to gain personal independence, vocational stability and social acceptance.

E. *The Application Process. Appliance Submission.*—In order to be considered for a grant, all applications must be submitted on standard forms provided for this purpose by the Commissioner in accordance with guidlines established by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for the Rehabilitation Research and Training Center Program.

One signed original and three copies of the grant application, including all attachments, are required. The original and two copies, which are for review purposes, are to be submitted to the Division of Grants and Contract Management, Office of Human Development, Room 1427, Mary E. Switzer Building, 330 "C" Street, SW., Washington, D.C. 20201, Attention: 13627–774. The other copy is to be submitted concurrently to the cognizant State Vocational Rehabilitation Agency. This agency reviews the application and forwards its comments to the Commissioner.

*Application Consideration.*—The Commissioner of Rehabilitation Services determines the final action to be taken with respect to each grant application.

All grant applications are subjected to a competitive review and evaluation conducted by qualified persons outside the Federal Government. The results of the competitive review supplement and assist the Commissioner's consideration of the competing applications. The Commissioner's consideration also takes into account the comments of the State Agencies of Vocational Rehabilitation, the HEW Regional Office and the headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside the Government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

*Grant Awards.*—The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, the program announcements within the limits of Federal funds available. The official grant award document is The Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation, if any. The initial award also specifies the total project period for which support is contemed.

F. *Criteria for Review and Evaluation of Applications.* All competing applications received in response to this announcement will receive a technical review by qualified Federal and non-Federal experts. Applications are evaluated against the following criteria:

1. Objectives of the Research and Training Center are in consonance with and capable of achieving RSA program objectives, as defined in this announcement.

2. The Center design, including the research and training plan, is capable of attaining Center objectives.

3. Adequate facilities are available to the applicant to carry out the project.

4. Project personnel, actual or proposed, are well trained and qualified and University faculty appointments of core staff are appropriate.

5. Staffing patterns are appropriate.

6. The Center demonstrates a satisfactory affiliation arrangement with a University and is a distinct organizational unit and sufficiently independent in its administration within the affiliation arrangement.

7. The University with which the Center is affiliated has multi-rehabilitation disciplinary resources available.

8. The University has adequate relationships with other departments within the universities, State Vocational Rehabilitation Agencies, public and voluntary organizations, etc.

9. The Universities affiliated service components are satisfactory and adequate.

10. The applicant or university is appropiately committed to the Center in terms of financial resources.

11. The project demonstrates the potential for project results to be effectively utilized.

12. The application demonstrates that the applicant has a knowledge of vocational rehabilitation issues.

13. The application demonstrates that the Center research will directly improve affiliated clinical services.

14. The estimated cost to the Government is reasonable in relation to anticipated project results.

G. *Closing Date for Receipt of Applications.* The closing date for receipt of applications under this program announcement is August 30, 1977. Applications may be mailed or hand delivered to: Receiving Office; Division of Grants and Contract Management; Office of Human Development, DHEW; Room 1427, Mary E. Switzer Building; 330 C Street, S.W.; Washington, D.C. 20201 (Attention: 13627–774). Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:00 p.m.

An application will be considered to have arrived by the closing date if:

1. The application was sent by mail, preferably registered or certified mail, no later than August 30 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

2. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than 5:00 p.m. August 30, in any case.

H. *Late Applications.* Late applications are not accepted and applicants are notified accordingly.

I. *Availability of Application Forms.* Application kits which contain the prescribed application forms and information for the applicant may be obtained by writing to the Division of Grants and Contract Management, Office of Human Development, Room 1427, Mary E. Switzer Building, 330 C Street, SW., Washington, D.C. 20201, Attention: (13627–774).

(Catalog of Federal Domestic Assistance Program Number: 13.627 Rehabilitation Research and Demonstrations.)

Dated: July 29, 1977.

JAMES F. GARRETT,
*Acting Commissioner of Rehabilitation Services.*

Approved: August 8, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development.

[FR Doc.77-23220 Filed 8-10-77;8:45 am]

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## Office of the Secretary

## CHILD AND FAMILY DEVELOPMENT RESEARCH REVIEW COMMITTEE

### Meeting

The Child and Family Development Research Review Committee will meet on Wednesday, September 7, 1977, through Saturday, September 10. The meeting will be held daily from 9 a.m. to 5 p.m. in room 5559, Office of Child Development, 400 Sixth Street SW., Washington, D.C., and will be closed to the public except for the opening remarks. The purpose of the Committee meeting is to review applications for research and demonstration projects in the areas of child and family development and welfare and to make recommendations to the Director, Office of Child Development, as to which projects should be funded. The agenda of this meeting will consist of opening remarks by the Director, Office of Child Development, followed by the review of demonstration proposals concerned with child and family development and welfare which have been submitted to the Office of Child Development for the award of grants. The closed portion of the meeting involves solely discussion by committee members of individual grant applications which contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of per-

sonal privacy. These are matters listed in 5 U.S.C. 552(b) (4) and (6). This portion of the meeting is closed under provision of 5 U.S.C. 552b(c) (4) and (6), and Section 10(d) of the Federal Advisory Committee Act.

A list of Committee members and a summary of the meeting may be obtained from:

Barbara Rosengard, Research and Evaluation Division, Office of Child Development, P.O. Box 1182, Washington, D.C. 20013, (202) 755-7758.

Dated: June 28, 1977.

BARBARA ROSENGARD,
*Executive Secretary.*

[FR Doc.77-23218 Filed 8-10-77;8:45 am]

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[Civil Action No. 3095-70]

## KENNETH ADAMS, ET AL. V. JOSEPH A. CALIFANO, JR.

### Amended Criteria Specifying Ingredients of Acceptable Plans To Desegregate State Systems of Public Higher Education

United States District Court for the District of Columbia.

Kenneth Adams, et al., Plaintiffs, v. Joseph A. Califano, Jr., Secretary of the Department of Health, Education and Welfare, et al., Defendants.

In late 1969 and early 1970, the Department of Health, Education and Welfare (HEW) notified ten states that they had not dismantled their statewide dual systems of public higher education. The letters sent by HEW at that time advised each state of its failure to adopt measures necessary to overcome the effects of past segregation and notified the states of their obligation to file a statewide plan for the desegregation of their public systems of higher education.

For the past seven years this Court has reviewed HEW's efforts to desegregate these systems of higher education. Three months ago, this Court found that the Department's effort had not been adequate and directly ordered the Department to require six of the original ten states to submit new desegregation plans and to set specific standards for those plans.

The Court found that "specific commitments (were) necessary for a workable higher education desegregation plan * * * concerning admission, recruitment and retention of students, concerning the placement and duplication of program offerings among institutions, the role and the enhancement of black institutions, and concerning changes in the racial composition of the faculties involved.

Specifically, this Court entered a Second Supplemental Order directing the Department to transmit to the six states of Arkansas, Florida, Georgia, North Carolina, Oklahoma, and Virginia as well as the Court and the plaintiffs criteria specifying the ingredients of acceptable desegregation plans for their institutions of public higher education.

This Court further directed that HEW require each state to submit, within 60 days of receipt of the criteria, a revised desegregation plan and to accept or reject such desegregation plan within 20 days thereafter.

Where HEW has found a violation of Title VI of the Civil Rights Act of 1964, it is required first to attempt to secure compliance by voluntary means. When those efforts fail, HEW is required to seek enforcement either administratively or through the courts. 42 U.S.C. 2000d-1; 45 CFR 80.7(d)(1), 80.8. These criteria are issued to assist the states in the preparation of desegregation plans as part of the process of securing voluntary compliance.

HEW has developed the attached criteria mindful of the instructions of this Court that the criteria comply with constitutional standards and Title VI, conform with sound educational practices, and take into account the unique importance of black colleges.

#### PREAMBLE

#### I. HISTORY OF LEGAL PROCEEDINGS

The criteria set forth below have been developed by the Department of Health, Education, and Welfare (HEW) pursuant to the specific direction of the United States District Court for the District of Columbia in "Adams v. Califano," Civil Action No. 3095-70, Second Supplemental Order (D.D.C. April 1, 1977). The Court's Order arises out of a lawsuit initiated in 1970 to require HEW to take action to enforce the provisions of Title VI of the Civil Rights Act of 1964.[1]

In 1969, the Office for Civil Rights, OCR, determined that ten states[2] were continuing to operate segregated higher education systems in violation of Title VI of the 1964 Civil Rights Act. Although the states were notified of this finding and were requested to submit corrective plans, no administrative enforcement actions were taken when the states failed to submit plans or submitted plans unacceptable to HEW. In February 1973, the "Adams" litigation resulted in a ruling requiring that HEW take appropriate enforcement action. "Adams v. Richardson", 356 F. Supp. 92 (D.D.C. 1973).

That ruling was unanimously affirmed by the full United States Court of Appeals for the District of Columbia Circuit, although the Court of Appeals modified the District Court's order and directed HEW to attempt to secure acceptable desegregation plans from the ten states before commencing enforcement proceedings. "Adams v. Richardson," 480 F. 2d 1159 (D.C. Cir. 1973).

In 1974, HEW accepted desegregation plans from eight of the ten states.[3] Reports covering the first year of implementation were submitted to HEW in 1975. Subsequently, the plaintiffs in the "Adams" case sought further relief and on April 1, 1977, the Court ruled that the 1974 plans did not comply with the criteria previously announced by HEW and that as implemented the plans had failed to achieve significant progress toward higher education desegregation. Based on these findings, the Court ordered HEW to develop and issue within 90 days specific criteria to guide the six states[4] in the preparation of revised desegregation plans.

#### II. LEGAL AND EDUCATIONAL PRINCIPLES

A. *De jure segregation.* These criteria apply to six states that operated racially segregated systems of public higher education under state law. The Office for Civil Rights found that the continuing racial patterns among institutions reflect the state's failure to remove the vestiges of the state imposed racial segregation in violation of Title VI.

B. *Affirmative duty to take effective steps to eliminate de jure segregation.* Where there has been past de jure segregation, states are required to take affirmative remedial steps and to achieve results in overcoming the effects of prior discrimination. HEW's regulation implementing Title VI provides that

> In administering a program regarding which the recipient has previously discriminated against persons on the ground of race * * *, the recipient must take affimative action to overcome the effects of prior discrimination. 45 CFR 80.3(b)(6)(i).

The 14th Amendment also calls for more than mere abandonment of discrimination through the state's adoption of passive or neutral policies. The United States Supreme Court has held that public school officials have "the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." "Green v. County School Board of New Kent County", 391 U.S. 430, 437-38 (1968).

The affirmative duty to desegregate applies with equal force to higher education. "Norris v. State Council of Higher Education," 327 F. Supp. 1368 (E.D. Va.

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[1] Title VI of the Civil Rights Act of 1964 provides: "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." 42 U.S.C. 2000d.

[2] Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, Pennsylvania, and Virginia.

[3] Louisiana refused to submit a plan and was referred to the Department of Justice, which filed a lawsuit, ("United States v. Louisiana"), Civil Action No. 74-68 (M.D. La.) in January 1974. The plan submitted by Mississippi was deemed unacceptable by HEW and the matter was referred to the Department of Justice, which filed a lawsuit, "Ayers and United States v. Finch," Civil Action No. D.C. 75-9-K (N.D. Miss.), in March 1975.

[4] The April 1, 1977, Order excludes Pennsylvania (by agreement of the parties to the "Adams" lawsuit) and Maryland, which commenced a separate injunctive suit against HEW's enforcement proceedings now pending in the United States Court of Appeals for the Fourth Circuit ("Mandel v. HEW," No. 76-1494), as well as Louisiana and Mississippi.

1971), *aff'd per curiam*, 404 U.S. 907 (1971); "Lee v. Macon County Board of Education," 267 F. Supp. 458 (M.D. Ala. 1967), *aff'd*, 369 U.S. 215 (1967); "Geier v. Dunn," 337 F. Supp. 573 (M.D. Tenn. 1972). Additionally, the Supreme Court has made it clear that desegregation plans are not adequate unless they are effective. "See Green v. County School Board of New Kent County, supra; Swann v. Charlotte-Mecklenburg Board of Education," 402 U.S. 1 (1971).

Consistent with the requirements of Title VI these criteria set forth the elements of a desegregation plan which would eliminate the effects of past discrimination.

C. *Statewide approach.* The Court of Appeals in its *en banc* opinion in "Adams" directed HEW to undertake a statewide approach and noted the serious problem created by the lack of viable statewide coordinated planning in higher education:

> The problem of integrating higher education must be dealt with on a statewide rather than a school-by-school basis.[9]

The Department has followed this approach since 1969 because we believe statewide planning is consistent with sound educational policy. Thus, these criteria require not only that each institution pursue nondiscriminatory student admission and faculty and staff employment practices, but also that the state system as a whole develop a comprehensive and coordinated statewide desegregation plan embodying those specific affirmative, remedial steps which will prove effective in achieving significant progress toward the disestablishment of the structure of the dual system and which address the problem of "systemwide racial imbalance."

D. *Specificity—goals and timetables.* The District Court in "Adams" concluded that the plans previously adopted by the states had failed to achieve adequate desegregation progress and lacked specific commitments for change as concerns the desegregation of student bodies and faculties, enhancement of traditionally black institutions, and desegregation of the governing boards in higher education systems.

The District Court directed HEW to prepare criteria which would identify for the states the specific elements to be included in their revised desegregation plans. As the District Court stated in response to plaintiffs' oral argument on January 17, 1977:

> What I do want them to do though is be under the compulsion of a court order to submit to the states certain *specific* requirements which the states must respond to and they should be given a timetable for communicating with the states, and the states should be given some kind of timetable within which to make response. (Transcript, January 17th ruling; emphasis supplied.)

In "Geier v. Blanton", 427 F. Supp. 644 (M.D. Tenn. 1977), the Court quoted its Order of December 23, 1969, expressing its dissatisfaction with a state submitted desegregation plan in that the plan as submitted "lacks specificity, in that there is no showing of funds to be expended, no statement of the number of students to be involved, and most importantly, no time schedules for either the implementation of the projects or the achievement of any goals." 427 F. Supp. at 646.

The Supreme Court has maintained that in a system with a history of segregation there is a need for remedial criteria of sufficient specificity to assure compliance with the law. "See Swann", supra at 25–26.

With respect to the six states here involved, the need to require specific goals and timetables is founded in the comparatively small numbers of black students attending the traditionally white four year institutions and completing graduate training. Further, the numbers of black faculty employed at these white institutions have remained small. Moreover, traditionally black institutions have not been given the facilities, programs, or status comparable to traditionally white institutions.

In keeping with the Court's view that the Department should submit specific requirements to the states, numerical goals and timetables are set forth in the criteria. The goals are established as indices by which to measure progress toward the objective of eliminating the effects of unconstitutional de jure racial segregation and of providing equal educational opportunity for all citizens of these states. They are benchmarks and provide the states the clear and specific guidance called for by the Court.

These goals are not quotas. The Department is opposed to arbitrary quotas. Failure to achieve a goal is not sufficient evidence, standing alone, to establish a violation of Title VI. In addition, the Office for Civil Rights upon a showing of exceptional hardship or special circumstances by a state, may modify the goals and timetables. Nevertheless, the states are under a statutory obligation to devise and implement plans that are effective in achieving the desegregation of the system.

Most importantly, under these criteria and the goals they set, all applicants must be able to compete successfully. States' efforts under these criteria need not and should not lead to lowering academic standards. States may need to innovate in seeking out talented students who will profit from higher education. They may need to broaden definitions of potential; to discount the effects of early disadvantage on the development of academic competence; and to broaden the talents measured in admission tests. But new and different yardsticks for measuring potential are not lower standards. They can be more valid measures of true potential and talent. Taken as a whole, these criteria seek to preserve and protect academic standards of excellence.

E. *Special considerations in developing criteria for desegregation in higher education.* A state system of higher education, as with an elementary and secondary school district, it held to an affirmative duty to take remedial action to correct past practices of segregation and discrimination. However, the nature of the remedial action required of a higher education system will differ from that required of a local education district. The Court of Appeals in "Adams" noted:

> However, we are also mindful that desegregation problems in colleges and universities differ widely from those in elementary and secondary schools, and that HEW admittedly lacks experience in dealing with them * * * As regrettable as these revelations are, the stark truth is that HEW must carefully assess the significance of a variety of new factors as it moves into an unaccustomed area. 480 F.2d at 1164.

In "Norris v. State Council of Higher Education," 327 F. Supp. 1368, 1373 (E.D. Va. 1971), aff'd per curiam, 404 U.S. 907 (1971), the court held:

> The means of eliminating discrimination in public schools necessarily differ from its elimination in colleges, but the state's duty is as exacting.

And in "Sanders v. Ellington," 288 F. Supp. 937, 943 (M.D. Tenn. 1968), the court stated:

> Now in considering the time element for presentation of a plan, I have thought of the complexities of the problem. I recognize that the simple remedies which might be available to a county school board where there is involved a compulsory system of education, a free system of education, and assignment of students, are not available here. Colleges are not compulsory and everyone can testify that they're not free.

Higher education differs from elementary and secondary education in many other ways. Besides being voluntary rather than compulsory, higher education operates on a statewide or regional basis, not local; there are no "attendance zones" in higher education; higher education programs vary from institution to institution and are not uniform; students are free to leave the state or to attend private colleges in pursuit of a higher education.

Furthermore, from state to state significant differences are to be found and must be taken into consideration. In some states strong centralized "system" exists including four year and two year institutions; in others, the four year and two year institutions report to separate boards; in yet others, each institution operates under its own independent board. While none of these differences relieves a state of its obligations under Title VI or its constitutional duties, they must be taken into account in fashioning an appropriate set of criteria to be applicable to six states.

Accordingly, while desegregation cases involving individual elementary and secondary school districts are a guide to a

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[9] It is important to note that we are not here discussing discriminatory admission policies of individual institutions. To the extent that such practices are discovered, immediate corrective action is required, but we do not understand HEW to dispute that point. This controversy concerns the more complex problem of systemwide racial imbalance. "Adams v. Richardson," supra, 480 F. 2d at 1164–1165 (footnote in original).

state's duty to take corrective action, they are not dispositive of the particular methods to be designed for the dismantling of a dual system of higher education, for the desegregation of a statewide system, for the removal of the vestiges of racial segregation, and for the correction of "systemwide racial imbalance." As the courts in "Adams" have noted, these are indeed "complex" issues. These criteria are designed specifically for the higher education systems of these six states based on a careful consideration of relevant statutes and court opinions and with due consideration to the unique characteristics of higher education.[5]

F. *The unique role of the traditionally black colleges.* In keeping with the instructions of the Court, the criteria recognize the unique importance of traditionally black colleges in meeting the educational needs of black students. More than 80 percent of all black college graduates have been trained at[6] black colleges. In the mid-seventies, black colleges continue to graduate almost forty percent of all blacks who receive[7] college degrees.

Thus it is with good reason that the Court of Appeals in "Adams" recognized the need to take into account "the special problems of black colleges."

> Perhaps the most serious problem in this area is the lack of state-wide planning to provide more and better trained minority group doctors, lawyers, engineers and other professionals. A predicate for minority access to quality post-graduate programs is viable, co-ordinated state-wide higher education policy that takes into account the special problems of minority students and of Black colleges * * *. [T]hese Black institutions currently fulfill a crucial need and will continue to play an important role in Black higher education. 480 F. 2d 1164–1165.

Again in 1977, the District Court in its Second Supplemental Order, p. 4, quoted the above language of the Court of Appeals and went on to state:

> The process of desegration must not place a greater burden on Black institutions or Black students' opportunity to receive a quality public higher education. The desegregation process should take into account the unequal status of the Black colleges and the real danger that desegregation will diminish higher education opportunities for Blacks. Without suggesting the answer to this complex problem, it is the responsibility of HEW to devise criteria for higher education desegregation plans which will take into account the unique importance of Black colleges and at the same time comply with the Congressional mandate.

The Department does not take this language to mean that the traditionally black institutions are exempt from the Constitution or the requirements of Title VI. To the contrary, traditionally black and traditionally white institutions are subject to the same constitutional and congressional mandate to provide an education to all citizens without discrimination or segregation. White and black institutions are to function as part of a unitary system free of the vestiges of state imposed racial segregation. However, as the Court has instructed, the transition to a unitary system must not be accomplished by placing a disproportionate burden upon black students, faculty, or institutions or by reducing the educational opportunities currently available to blacks.

To achieve the objectives of Title VI, precise methods will need to be fashioned for different institutions within a state, each appropriate to the task of overcoming the effects of prior discrimination in the particular instance. Each method will be enforced with equal force and determination. Each method is designed to achieve the same constitutional standard.

### III. CONSULTATION PROCESS

In the preparation of these criteria, the Department undertook an extensive consultation process within the Department and with interested outside parties. In an effort to assure that these criteria are both legally and educationally sound, a departmental task force was established to guide their development. The task force combined the multiple disciplines and varied expertise needed to resolve the complex issues and educational policies involved in this desegregation process. Serving on the task force were the General Counsel, the Director of the Office for Civil Rights, the Assistant Secretary for Education, the Commissioner of Education, and the Assistant Secretary for Planning and Evaluation.

The Department also embarked on a program of open dialogue and consultation with parties of interest. The task force members conferred with representatives of the six states collectively and individually. The representatives included college presidents, education officials, and aides to Governors. A special meeting was held with students who attend the public colleges in the six states and representatives of several national student organizations. Four meetings were held with officials of the amicus curiae, National Association for Equal Opportunity in Higher Education, an association of the presidents of 110 predominantly black colleges and universities, both state supported and private. Two panels of nationally recognized educators met for half day sessions to advise the Department.

Finally, the plaintiffs' representatives have devoted many hours to reviewing and commenting on drafts of the criteria. They also convened a meeting for the Department with 28 citizens from these six states who are most familiar with the higher education desegregation efforts in their respective states. It is the Department's intention to continue these informal discussions as the most effective means of assuring communications with all parties.

The Department assumes full and sole responsibility for the content of these criteria. The consultations enumerated above were exceedingly helpful to the Department in the preparation of these criteria, but these discussions do not imply concurrence in these criteria in whole or in part by other parties.

Higher educational systems in these and other states are undergoing difficult adjustments caused by fiscal and demographic trends beyond the control of individual states. Accordingly these criteria focus on desegregation efforts to be undertaken within the next five years.

As each state attains the goals set forth in its plan, OCR will assess, in cooperation with that state, the progress thereby made in order to determine what additional steps, if any, are necessary to complete the desegregation process. Furthermore, during the course of the five year period, OCR will periodically review these criteria to assure their adequacy in meeting constitutional requirements, their consistency with rulings of the courts in higher education desegregation, and the mandate of Title VI.

## ELEMENTS OF A PLAN

### I. DISESTABLISHMENT OF THE STRUCTURE OF THE DUAL SYSTEM

An acceptable plan shall commit the state to the goal of organizing and operating the system and institutions of higher education in a manner that promises realistically to overcome the effects of past discrimination and to disestablishe the dual system and which assures that students will be attracted to each institution on the basis of educational programs and opportunities uninhibited by past practices of segregation.

To achieve the disestablishment of the structure of the dual system, each plan shall:

A. *Define the mission of each institution within the state system on a basis other than race.* Each mission statement shall include at a minimum:

1. The level, range and scope of programs and degrees offered;

2. Geographic area served by the institution; and

3. The projected size of the student body and staff.

B. *Specify steps to be taken to strengthen the role of traditionally black institutions in the state system.* The plan shall include:

1. Commitments that traditionally black institutions will have the facilities, quality and range of programs, degree offerings, faculties, student assistance, and other resources which are at least comparable to those at traditionally white institutions having similar missions;

2. Commitments that necessary improvements will be made to permit these institutions to fulfill their defined missions;

3. Commitments by the state system for the improvement and expansion of

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[5] For a useful discussion of these issues see Note, "The Affirmative Duty To Integrate Higher Education," 70 "Yale Law Journal" 666 (1970).

[6] See Elias Blake, Public Policy and the Higher Education of Black Americans," Staff Report, Subcommittee on Constitutional Rights of the Committee on the Judiciary, 94th Cong. 2d Sess. 1976.

[7] National Center for Education Statistics, Earned Degrees Survey, 1975–76.

resources, (e.g., physical plant, program offerings, research equipment, financial support, student, faculty and professional staff services) at the traditionally black institutions in accordance with their missions;

4. An assessment of the physical plant at traditionally black institutions; and

5. A detailed description of the resources, expressed in dollars and in numbers of personnel to be assigned, which the state system will provide (and the source for such funds) in order to implement these measures in I.B., reported by year for the life of the measure or activity.

C. *Commit the state to take specific steps to eliminate educationally unnecessary program duplication among traditionally black and traditionally white institutions in the same service area.* The plan shall identify existing degree programs, major fields of study, and course duplication (other than core curricula) among institutions having identical or overlapping service areas and indicate specifically with respect to each area what steps the state will take to eliminate such duplication. The elimination of such program duplication shall be carried out consistent with the objective of strengthening the traditionally black colleges.

D. *Commit the state to give priority consideration to placing any new undergraduate, graduate, or professional degree programs, courses of study, etc., which may be proposed, at traditionally black institutions, consistent with their missions.*

E. *Comit the state to withhold approval of any changes in the operation of the state system or of any institutions that may have the effect of thwarting the achievement of its desegregation goals.*

F. *Commit the state to advise OCR of proposed major changes in the mission or the character of any institution within the state system which may directly or indirectly affect the achievement of its desegregation goals prior to their formal adoption.* Such proposed changes include but are not limited to: The establishment or major expansion of new programs of study, of departments, or institutions; the alteration of two year to four year institutions; the conversion of a private to a public institution; or the closing or merger of institutions or campuses.

G. *Specify timetables for sequential implementation of the actions necessary to achieve these goals as soon as possible but no later than within five years (by the close of the academic year 1981–82), unless compelling justification for a longer period for compliance is provided to and accepted by the Department.* The plan shall include interim benchmarks and goals from which progress toward these objectives may be measured. These timetables and benchmarks shall be appropriate to the nature of the action to be taken. For example, studies of physical plant and resources comparablity should be completed promptly; corrective actions (including capital construction) will require longer time periods.

H. *Commit the state and all its involved agencies and subdivisions to specific measures for achievement of the above objectives.* Such measures may include but are not limited to establishing cooperative programs consistent with institutional missions; reassigning specified programs, course offerings, resources and/or services among institutions; realigning the land grant academic programs so that research, experiment and other educational services are redistributed on a nonracial basis; and merging institutions or branches thereof, particularly where institutions or campuses have the same or overlapping service areas. The measures taken pursuant to this section should be consistent with the objective of strengthening the traditionally black colleges. A description of these measures need not be submitted at the time the plan is filed, but should be filed as a supplementary statement within 30 days thereafter for review and comment by OCR. Measures that offer no reasonable possibility of achieving the goals listed above will be rejected by OCR. Revised measures will be required before the plan can be accepted.

II. DESEGREGATION OF STUDENT ENROLLMENT

An acceptable plan shall commit the state to the goal of assuring that the system as a whole and each institution within the system provide an equal educational opportunity, are open and accessible to all students, and operate without regard to race and on a desegregated basis.

To achieve the desegregation of student enrollment, each plan shall:

A. *Adopt the goal that for two year and four year undergraduate public higher education institutions in the state system, taken as a whole, the proportion of black high school graduates throughout the State who enter such institutions shall be at least equal to the proportion of white high school graduates throughout the State who enter such institutions.*

B. (1) *Adopt the goal that there shall be an annual increase, to be specified by each state system, in the proportion of black students in the traditionally white four-year undergraduate public higher education institutions in the state system taken as a whole and in each such institution; and*

(2) *Adopt the objective of reducing the disparity between the proportion of black high school graduates and the proportion of white high school graduates entering[9] traditionally white four year and upper division undergraduate public higher education institutions in the state system; and adopt the goal of reducing the current disparity by at least fifty percent by the academic year 1982–83. However, this shall not require any state to increase by that date black student admissions by more than 150% above the admissions for the academic year of 1976–77.*[9]

[9] For the purposes of this subsection, the term entering includes first-time transfers from two year and other institutions.

[9] Thus, where the present entry by black students in four year traditionally white institutions is at a rate of 1000 students per year and a fully proportional rate would be 3000 students per year, the state's goal would be an entry rate of 2000 students per year by 1982–83. A state where the present entry is at a rate of only 500 students per year and full proportionality would be 3000 students per year would not by that date have to close half the gap (by a rate of 1750 per year) but only achieve an entry rate of 1250 students, which is 150% over its present rate of 500.

C. *Adopt the goal that the proportion of black state residents who graduate from undergraduate institutions in the state system and enter graduate study or professional schools in the state system shall be at least equal to the proportion of white state residents who graduate from undergraduate institutions in the state system and enter such schools.* This goal (and interim benchmarks or goals) shall be separately stated for each major field of graduate and professional study. To assure that this goal can be met in the immediate future special recruitment efforts should be considered at traditionally black institutions. Particular attention should be given to increasing black student enrollment and graduation from those traditionally white four-year undergraduate institutions which serve as the feeder institutions for the graduate and professional schools. Achievement of this goal is of particular importance in light of the specific concern expressed by the Court of Appeals in "Adams." In assessing progress toward this goal, OCR will give consideration to the number of blacks from each state who enroll in graduate and professional schools outside the state system.

D. *Adopt the goal of increasing the total proportion of white students attending traditionally black institutions.* Increased participation by white students at traditionally black institutions must be a part of the process of desegregation of the statewide system of higher education. However, pursuant to the admonition of the courts in "Adams," "The desegregation process should take into account the unequal status of the Black colleges and the real danger that desegregation will diminish higher education opportunities for Blacks." Civil Action No. 3095–70, Second Supplemental Order at p. 4. The following steps are designed to guard against the diminution of higher educational opportunities for black students, to take into account the unique importance of traditionally black colleges and to comply with the mandate of Title VI. Establishment of numerical goals for the enrollment of white students at traditionally black institutions must be preceded by an increasing enrollment of black students in the higher education system and at the traditionally white institutions, as is required by section II of these criteria. It must also be preceded by the accomplishment of specific steps to strengthen the role of traditionally black institutions, eliminate program duplication, locate new programs at black institutions, and by

such other measures as are set forth in section I.

OCR shall annually review the progress made by each state in increasing participation by black students in higher education and in the disestablishment of the dual school system. Commencing on September 1, 1979, and consistent with such progress, each state system shall specify annual numerical goals for increasing the participation of white students attending the traditionally black institutions.

E. *Commit the state to take all reasonable steps to reduce any disparity between the proportion of black and white students completing and graduating from the two year, four year and graduate public institutions of higher education, and establish interim goals, to be specified by the State system, for achieving annual progress.*

F. *Commit the State to expand mobility between two year and four year institutions as a means of meeting the goals set forth in these criteria.*

G. *Specify timetables for sequential implementation of actions necessary to achieve these goals as soon as possible but not later than within five years (by the close of the academic year 1981–82) unless another date is specified in this section.*

H. *Commit the State and all its involved agencies and subdivisions to specific measures to achieve these goals.* Such measures may include, but are not limited to reviewing, monitoring, and revising, as necessary, procedures for student recruitment, admissions, compensatory instruction, counseling, financial aid, and staff and faculty development programs. A description of these measures need not be submitted at the time the plan is filed, but should be filed as a supplementary statement within 30 days thereafter for review and comment by OCR. Measures that offer no reasonable possibility of achieving the numerical goals will be rejected by OCR. Revised measures will be required before the plan can be accepted.

III. DESEGREGATION OF FACULTY, ADMINISTRATIVE STAFFS, NON-ACADEMIC PERSONNEL, AND GOVERNING BOARDS

An acceptable plan shall commit the state system to the goal of increasing the number and proportion of black employees, academic and non-academic, throughout the system and of increasing representation of black citizens among appointive positions on the governing boards of the state system and of individual institutions.

To achieve the desegregation of faculty, administrators, other personnel, and governing boards, each plan shall:

A. *Adopt the goal that the proportion of black faculty and of administrators at each institution and on the staffs of each governing board, or any other state higher education entity, in positions not requiring the doctoral degree, shall at least equal the proportion of black students graduating with masters degrees from institutions within the state system, or the proportion of black individuals with the required credentials for such positions in the relevant labor market area, whichever is greater.*

B. *Adopt the goal that the proportion of black faculty and of administrators at each institution and on the staffs of each governing board or any other state higher education entity, in positions requiring the doctoral degree, shall at least equal the proportion of black individuals with the credentials required for such positions in the relevant labor market area.*

C. *Adopt the goal that the proportion of black non-academic personnel (by job category) at each institution and on the staffs of each governing board or any other state higher education entity, shall at least equal the proportion of black persons in the relevant labor market area.*

D. *Assure hereafter and until the foregoing goals are met that for the traditionally white institutions as a whole, the proportion of blacks hired to fill faculty and administrative vacancies shall not be less than the proportion of black individuals with the credentials required for such positions in the relevant labor market area.*

E. *Specify timetables for sequential implementation of the action necessary to achieve this objective including interim benchmarks and goals from which progress toward the objective may be measured.*

These timetables, interim goals and benchmarks shall be established in light of, and shall specify, the current and projected rates of vacancies in the various job categories, present and projected labor market availability, and other relevant factors.

F. *Commit the state system to taking specific measures to achieve these objectives.* Such measures may include, but are not limited to employment programs providing centralized recruitment, vacancy, and applicant listings; transfer options; faculty development programs permitting release time for black faculty to attain the terminal degree; and the interchange of faculty on a temporary or permanent basis among traditionally white and traditionally black institutions within the state system. A description of these measures need not be submitted at the time the plan is filed, but should be filed as a supplementary statement within 30 days thereafter for review and comment by OCR. Measures that offer no reasonable possibility of achieving the goals listed above will be rejected by OCR. Revised measures will be required before the plan can be accepted.

G. *Adopt the goal of increasing the numbers of black persons appointed to systemwide and institutional governing boards and agencies so that these boards may be more representative of the racial population of the state or of the area served.*

IV. SUBMISSION OF PLANS AND MONITORING

A. The states of Arkansas, Florida, Georgia, North Carolina, Oklahoma, and Virginia shall within 60 days of receipt of these criteria submit to OCR a desegregation plan for each of their systems of public higher education to implement the foregoing criteria.

1. Each plan shall commit the state to substantial progress toward each of the goals in the first two years of the plan.

2. Each plan shall be signed by the governor and by each official or designated person representing the agencies, associations, commissions, offices, and/or institutions responsible for adopting the systemwide and institutional goals described therein. Such persons or entities must be authorized under state law to perform all actions necessary to achieve these goals.

3. Each plan shall certify that achievement of the goals and interim benchmarks specified therein has been adopted as official policy of each official or agency.

B. OCR shall notify each state of acceptance or rejection of the plan within 120 days of its receipt.

C. It is recommended that each state establish a biracial citizens advisory/monitoring committee to assist the state in monitoring the implementation of the plan.

D. Beginning in August 1978, each state shall submit to OCR by August 15 of each year a comprehensive narrative assessment of its desegregation efforts in the most recent academic year. This narrative assessment shall include:

1. A description of the specific measures which have been taken to achieve the objectives enumerated in the plan and in the criteria;

2. A description of the results achieved, including quantitative indices where appropriate or required;

3. An analysis of the reasons why any steps taken proved inadequate or insufficient; and

4. A description of the steps the state will take to achieve progress and to maintain the timetables set forth in the plan.

E. OCR shall review such narrative reports. If good cause for the failure to meet interim goals is not demonstrated, OCR may impose more stringent requirements, including advance approval by OCR of desegregation methods, in order to assure achievement of the goals of the plan. In the alternative, the Department may initiate enforcement proceedings under Title VI of the Civil Rights Act of 1964, if compliance with Title VI cannot be achieved by voluntary means.

F. Each plan shall provide that the State will furnish to OCR statistical reports, assessments, and such other information as OCR may deem necessary from time to time in order to determine the effectiveness of the State's efforts to achieve the goals described in these criteria. Such information shall include annual statistical reports in substantially the same format used previously by the affected States pursuant to earlier desegregation plans. Specific dates for the submission of the reports will be established by OCR. In the event that

subsequent developments call for the submission of additional data, such requirements will be announced after consultation with the States, and the States and institutions shall have sufficient time to develop the system needed for the gathering of additional data.

V. DEFINITIONS

As used in these criteria:

A. "Department" refers to the U.S. Department of Health, Education, and Welfare. In instances where the "Department" is to take certain actions, they may be performed by the Office for Civil Rights or the Director, Office for Civil Rights, on behalf of the Department.

B. "Institution" means any school, college, junior or community college, university, professional or graduate school, administered by or as an agency of the state government. Four year institution means any school, college, or university that offers a baccalaureate or graduate degree. For the purpose of these criteria, "institution" does not refer to private schools or colleges.

C. "State system" means the aggregate of all state public institutions of higher education within the state, whether or not under the governance of the same state agency or board.

D. "Student" means any person enrolled in an instructional program, whether full-time or part-time, subject to exceptions to be specified by the Office For Civil Rights.

E. "Faculty" means all persons employed by an institution as full-time instructional personnel.

F. "Labor market area" means the geographical area in which an institution or campus traditionally recruits or draws applicants possessing the requisite credentials for vacancies in faculty, administrative, or non-academic personnel positions.

G. "Governing board, means that appointed or elected body, whether or not responsible to the governor of a state or to the state legislature, which is charged under state law with the ultimate responsibility for the administration and operation of institutions within the state system of public higher education. A "governing board" may be responsible for the entire system, for a single campus or institution thereof, or for a specified group of campuses or institutions.

Dated: August 4, 1977.

DAVID S. TATEL,
*Director,*
*Office for Civil Rights.*

[FR Doc.77-23230 Filed 8-10-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE, WORK PROGRAM SUBCOMMITTEE

#### Meeting

Notice is hereby given in accordance with Public Laws 92-463 and 92-579 that the Work Program Subcommittee of the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior will meet in Riverside, Calif., September 1, 1977. The purpose of the meeting is to review alternative revisions to the California Desert Conservation Area Work Program resulting from reduction in anticipated 1978 budget.

The meeting will be held at 2 p.m. in the Conference Room, Bureau of Land Management, 1695 Spruce Street, Riverside, Calif. 92507. The meeting will be open to the public.

Dated: August 3, 1977.

JAMES B. RUCH,
*Acting State Director.*

[FR Doc.77-23207 Filed 8-10-77;8:45 am]

[N-17001]

### NEVADA

#### Notice of Application

AUGUST 1, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Southwest Gas Corporation has applied for a natural gas pipeline right-of-way across the following lands:

MOUNT DIABLO MERIDIAN

T. 14 N., R. 20 E.
Secs. 5, 6, 7;
T. 16 N., R. 20 E.
Secs. 36;
T. 16 N., R. 21 E.
Secs. 14, 21, 22, 28, 29, 30, 31.

This pipeline will reinforce and supplement the existing Carson Lateral and Stewart to Genoa, Nevada pipeline system.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other anlyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the District Manager, Bureau of Land Management, 1050 E. Williams St., Suite 335, Carson City, Nevada 89701.

WM. J. MALENCIK,
*Chief, Division*
*of Technical Services.*

[FR Doc.77-23204 Filed 8-10-77;8:45 am]

[NM 31160, 31175, 31236]

### NEW MEXICO

#### Notice of Application

AUGUST 5, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch, one 12¾-inch and one 10¾-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 9 W.,
Sec. 6, SE¼NW¼ and SW¼NE¼.
T. 31 N., R. 9 W.,
Sec. 29, lots 7, 8, 10, and 11;
Sec. 30, lots 8, 9, 10, 12, and 13;
Sec. 33, lot 4.
T. 31 N., R. 10 W.,
Sec. 25, lots 2, 3, 4, and 5;
Sec. 26, lots 1 and 3;
Sec. 27, lots 4, 5, 6, 7, and 8;
Sec. 28, lots 1, 2, 3, 5, and 6;
Sec. 29, lot 8.
T. 32 N., R. 10 W.,
Sec. 31, lots 6 and 11.

These pipelines will convey natural gas across 5.348 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
*Chief, Branch of Lands*
*and Minerals Operations.*

[FR Doc.77-23206 Field 8-10-77;8:45 am]

(NM 29537)

### NEW MEXICO

#### Proposed Withdrawal and Reservation of Lands for Military Purposes; Amendment

AUGUST 3, 1977.

The Notice of Proposed Withdrawal and Reservation of Lands for Military Purposes, under serial number NM 29537, appearing as FR Doc. 77-1023 in the January 11, 1977 issue of the FEDERAL REGISTER at pages 2360-2363, is hereby amended to add the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 7 E.,
Sec. 1, those parts lying east of the Southern Pacific Railway right-of-way.
T. 22 S., R. 9 E.,
Sec. 7, those parts lying east of the Southern Pacific Railway right-of-way.
T. 23 S., R. 11 E.,
Sec. 31, E½NE¼ and NE¼SE¼.

Amendment to include the above listed land descriptions does not change the total acreage of the proposed withdrawal.

FRED E. PADILLA,
*Chief, Branch of Lands*
*and Minerals Operations.*

[FR Doc.77-23205 Filed 8-10-77;8:45 am]

### Bureau of Land Management

[Wyoming 60312]

### WYOMING

#### Application

AUGUST 5, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act

of 1920, as amended (30 U.S.C. 185), the Western Oil Transportation Co., Inc., of Casper, Wyoming filed an application for a right-of-way to construct a 4½ inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 58 N., R. 76 W.,
sec. 30, lots 16, 22, 23

This pipeline will transport crude oil within T. 58 N., R. 76 W., in Sheridan County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 7 Union Blvd., P.O. Box 2834, Casper, Wyoming 82601.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-23125 Filed 8-10-77;8:45 am]

## National Park Service

[Order No. 7, Amdt. No. 6]

### LAND ACQUISITION OFFICER, WESTERN REGION

#### Delegation of Authority

Western Region Order No. 7, approved March 3, 1972, and published in the FEDERAL REGISTER of March 28, 1972 (37 FR 6326), and Amendment No. 1, approved March 5, 1974, and published in the FEDERAL REGISTER of April 18, 1974 (39 FR 13903), and Amendment No. 2, approved March 27, 1975, and published in the FEDERAL REGISTER of May 5, 1974 (40 FR 19508), and Amendment No. 3, approved January 12, 1976, and published in the FEDERAL REGISTER of May 14, 1976 (41 FR 19993), and Amendment No. 4, approved September 8, 1976, and published in the FEDERAL REGISTER of November 15, 1976 (41 FR 50357), and Amendment No. 5, approved November 29, 1976, and published in the FEDERAL REGISTER of January 19, 1977 (38 FR 7478), are hereby amended. Section 2, paragraphs (h) and (h)(1) are hereby amended, and (h)(2) and (h)(3) are hereby added to read as follows:

(h) *Field Land Acquisition Officers.* All Field Land Acquisition Officers and Inholding Realty Specialists are authorized to exercise authority with respect to the following:

(1) Approve and accept offers to sell to or exchange with the United States lands or interests in lands when the amount involved does not exceed $250,000.

(2) Accept deeds conveying to the United States lands or interests in lands.

(3) Approve claims for reimbursement under Pub. L. 91-646 when the amount involved does not exceed $5,000.

Dated: July 6, 1977.

HOWARD H. CHAPMAN,
*Regional Director, Western Regional Office.*

[FR Doc.77-23152 Filed 8-10-77;8:45 am]

### MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

#### Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Bernard E. Kopaskie has filed a plan of operations in support of proposed mining activities on lands embracing his Midnight Mining Claim within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, Calif.

Dated: June 30, 1977.

RICHARD S. RAYNER,
*Acting Superintendent, Death Valley National Monument.*

Dated: July 11, 1977.

JOHN H. DAIVS,
*Acting Regional Director, Western Region.*

[FR Doc.77-23153 Filed 8-10-77;8:45 am]

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-36]

### CERTAIN PLASTIC FASTENER ASSEMBLIES

#### Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 30, 1977, and an amendment was filed on July 22, 1977, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Dennison Manufacturing Co., Framingham, Mass. 01701, alleging that unfair methods of competition and unfair acts exist in the importation of plastic fastener assemblies into the United States, or in their sale, by reason of the alleged coverage of such articles by claims 1-5, 7 and 9-11 of U.S. Letters Patent 3,733,657, owned by Dennison Manufacturing Co. It alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests a permanent exclusion from entry into the United States of the allegedly infringing imports.

Having considered the complaint, the U.S. International Trade Commission, on August 4, 1977, *Ordered:*

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c), whether, on the basis of the allegations set forth in the complaint, there is a violation of subsection (a) of 19 U.S.C. 1337 in the unauthorized importation of plastic fastener assemblies into the United States, or in their unauthorized sale, by reason of such assemblies allegedly being covered by claims 1-5, 7, and 9-11 of U.S. Letters Patent 3,733,657, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) That, for the purpose of the investigation so instituted, the following persons, alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as respondents upon which the complaint and this notice are to be served:

FOREIGN MANUFACTURERS

Lozio et Figli, S.A.S., Uffici Magazzino, Via Petrella, 4, 20124 Milano, Italy.
Tokoyo Style, Ltd. (for Banok), No. 5, 3-2 Chome, Higasjikanda, Chiyoda-Ku, Tokoyo, Japan.
Teknotex S.R.L. Import-Export, Uffici Pezzotti 61, 20141 Milano, Italy.
Yoo Joh & Co., Gwamg Hwa Moon, P.O. Box 22, Seoul, Korea.
Okabe Marking System, Kabushiki Kaisha, No. 68 1-Chome, Shinjuku-Ku, Tokoyo, Japan.
DaeWon Kang Up Co., Ltd., 134, Ohryu-dong, Yungdeungo-ku Seoul, Korea.
Dong Shin Pharmaceutical Co., Ltd., 62-7, 2-ka, Choongmoo-ro, Chung-ku, Seoul, Korea.
Yoo & Co., Seoul, Korea.
Tong Shin Co., Ltd., 435, Chimson-dong, Buk-ku, Taegu, Korea.

IMPORTERS

Ben Clements & Sons, Inc., 209 West 38th Street, New York, N.Y. 10018.
Marketing Resources Co., 1010 Jorie Boulevard, Suite 308, Oak Brook, Ill., 60521.
Han Sung Trading Co., 1905 Wilshire Boulevard, Los Angeles, Calif. 90057.

(3) That, for the purpose of the investigation so instituted, Commissioner Italo H. Ablondi, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer; and

(4) That, for the purpose of the investigation so instituted, Steven K. Morrison, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named as Commission investigative attorney.

Responses must be submitted by the parties in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (41 FR 17710, April 27, 1976). Pursuant to sections 210.16(d) and 210.21(a) of the Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be

granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint, with the exception of confidential information referred to therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission Building, Washington, D.C., and in the New York City Office of the Commission, 6 World Trade Center.

By order of the Commission.

Issued: August 8, 1977.

KENNETH R. MASON,
*Secretary.*

[FR Doc.77-23217 Filed 8-10-77;8:45 am]

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### IMPORTERS OF CONTROLLED SUBSTANCES

#### Registration

By Notice dated May 26, 1977, and published in the FEDERAL REGISTER on June 2, 1977 (42 FR 28190), Applied Science Labs., Inc., 139 North Gill Street, Box 440, State College, Pa. 16801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

| Drug: | *Schedule* |
|---|---|
| 3,4-Methylenedioxy amphetamine | II |
| Bufotenine | I |
| Diethyltryptamine | I |
| Dimethyltryptamine | I |
| Piminodine | II |

No comments or objections have been received. Additionally, there are currently no registered domestic bulk manufacturers or applicants therefor, of the substances listed. The substances, if imported will be supplied exclusively for authorized research or as chemical analysis standards. Therefore, in accordance with 21 U.S.C. 952(a)(2)(B) and 21 CFR Section 1311.42, and pursuant to Section 1008(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: August 2, 1977.

DANIEL P. CASEY,
*Acting Deputy Administrator,*
*Drug Enforcement Administration.*

[FR Doc.77-23179 Filed 8-10-77;8:45 am]

### MANUFACTURE OF CONTROLLED SUBSTANCES

#### Registration

By Notices dated May 26, 1977, and published in the FEDERAL REGISTER on June 2, 1977, the following manufacturers made application to the Drug Enforcement Administration to be registered as bulk manufacturers of the basic classes of controlled substances listed below:

Winthrop Laboratory, Division of Sterling Drug, Inc., 33 Riverside Avenue, Rensselaer, NY 12144 (Apr. 13, 1977):

| Drug: | *Schedule* |
|---|---|
| Pethidine | II |

Applied Science Laboratories, Inc., 139 North Gill Street (Box 440), State College, Pennsylvania 16801 (undated):

| Drug: | *Schedule* |
|---|---|
| Mescaline | I |
| Lysergic acid diethylamide | I |

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Acting Deputy Administrator hereby orders that the applications submitted by each of the above firms for registration as bulk manufacturers of the basic classes of controlled substances listed therein are granted.

Dated: August 2, 1977.

DANIEL P. CASEY,
*Acting Deputy Administrator,*
*Drug Enforcement Administration.*

[FR Doc.77-23180 Filed 8-10-77;8:45 am]

## NUCLEAR REGULATORY COMMISSION

[Docket No. S50-586]

### BALTIMORE GAS AND ELECTRIC CO.

#### Docketing of Application for Early Site Review

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application from the Baltimore Gas and Electric Company pursuant to 10 CFR § 2.101(a-1) for an early review and hearing and an early partial decision on issues of site suitability within the purview of the applicable provisions of 10 CFR Parts 50, 51, and 100 for their Perryman site. The four volume Site Suitability Environmental Report and four volume Site Suitability Site Safety Report dated July 1, 1977, were docketed on July 11, 1977. Docket No. S50-586 has been assigned to the Perryman review and should be referenced in any correspondence relating thereto.

The proposed site is located in Harford County in northeastern Maryland near the town of Perryman, approximately 16.5 miles east-northeast of Baltimore.

A copy of the application, Site Suitability Environmental Report and Site Suitability Site Safety Report are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Harford Community College, 401 Thomas Road, Bel Air, Maryland. Copies of the information are also being made available at the Regional Planning Council, Mt. Vernon Medical Building, 701 St. Paul Street, Baltimore, Maryland.

A Notice of Hearing is being published separately, setting forth the radiological safety and environmental issues to be considered during the review. A date for submitting Petitions for Leave to Intervene will be set forth in the Notice of Hearing.

Interested persons may submit comments on the applicant's Site Suitability Environmental Report for the Commission's consideration. Federal and State agencies are being provided with copies of the applicant's Site Suitability Environmental Report (local agencies may obtain this document upon request). In accordance with 10 CFR § 2.605, the Commission, upon its own initiative or upon the timely motion of any party to the proceeding, may decline to initiate an early hearing or render an early partial decision on any issue or issues of site suitability for which early consideration is sought that would prejudice the later review and decision on alternative sites or that would not be in the public interest. Comments on whether an early site review should be conducted under 10 CFR § 2.605 are due by September 26, 1977. Comments on the merits of the proposed Perryman site are due by December 9, 1977. Comments by Federal, State and local officials or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Harford Community College, 401 Thomas Road, Bel Air, Maryland.

After the site information has been analyzed by the Office of Nuclear Reactor Regulation staff, and absent a determination by the Commission to decline to initiate an early site review, a Draft Site Environmental Statement and Site Safety Evaluation Report will be prepared. Upon preparation of the Draft Site Environmental Statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the Draft Site Environmental Statement, the staff will prepare a Final Site Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Upon preparation of the Site Safety Evaluation Report, the Commission will notice its availability in the FEDERAL REGISTER.

Any person who wishes to have his views on antitrust matters of the application presented to the Attorney General for consideration should submit such views in accordance with a subsequent notice that will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 3rd day of August 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
*Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.*

[FR Doc.77-23193 Filed 8-10-77;8:45 am]

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[Dockets Nos. 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 Amendments Nos. 45, 45, and 42 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Co. (the licensee), which revised Technical Specifications for operation of the Oconee Nuclear Station Units Nos. 1, 2 and 3, (the facilities) located in Oconee County, S.C. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications (1) to establish operating limits for Unit 2 Cycle 3 operation and (2) to establish requirements for testing reactor core internal vent valves.

The applications for the amendments 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 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 50.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated May 6, 1977, as supplemented June 21 and July 11, 1977, (2) application for amendments dated March 1, 1977, as supplemented May 5, 1977, (3) Amendments Nos. 45, 45, and 42 to Licenses Nos. DPR-38, DPR-47 and DPR-55, 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 at the Oconee County Library, 201 South Spring Street, Walhalla, S.C. 29691. 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, Md., this 29th day of July 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER, *Chief of Operating Reactors Branch No. 1 Division of Operating Reactors.*

[FR Doc.77-23195 Filed 8-10-77;8:45 am]

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[Docket No. 50-334]

## DUQUESNE LIGHT CO. ET AL.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulator Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-66, issued to Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co. (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station Unit No. 1 (the facility) located in Beaver County, Pa. The amendment is effective as of its date of issuance.

This amendment relates to a revised enthalpy rise hot channel factor ($F^N\Delta H$) Technical Specification for Beaver Valley Power Station Unit No. 1 to account for new fuel rod bow information.

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, negative declaration or 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 25, 1977, (2) Amendment No. 10 to License No. DPR-66, 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 Beaver Area Memorial Library, 100 College Avenue, Beaver, Pa. 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, Md., this 27th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*

[FR Doc.77-23194 Filed 8-10-77;8:45 am]

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## FLORIDA POWER AND LIGHT CO.

[Docket No. 50-251]

### Order for Modification of License

I.

The Florida Power and Light Co. (the Licensee), is the holder of Facility Operating License No. DPR-41 which authorizes the operation of the nuclear power reactor known as Turkey Point Unit No. 4 (the facility) at steady state reactor power levels not in excess of 2200 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensee's site in Dade County, Fla.

II.

On February 8, 1977, the Nuclear Regulatory Commission ordered Turkey Point Unit No. 4 to perform an inspection of steam generators at the end of the then current fiscal cycle or within 120 equivalent days of power operation from February 8, 1977, whichever occurred first. On May 3, 1977, the Nuclear Regulatory Commission issued a supplementary Order granting approval for resumption of reactor operation until the end of the third fuel cycle and continuing the other requirements of the Order ofg February 8, 1977 in force. On May 9, 1977, Turkey Point Unit No. 4 was shut down for refueling for Cycle 4 and for inspection of the three steam generators in accordance with the above Orders. The Orders required Nuclear Regulatory Commission approval before resuming reactor power operation after the shutdown.

On June 9, 1977, the Licensee submitted a report describing the results of their inspections and tests of the steam generators, as well as their analysis and evaluation of the data. The report was supplemented by letters dated June 10, 1977, June 28, 1977, July 6, 1977, July 27, 1977 and July 29, 1977. The licensee also submitted a revised ECCS performance analysis taking into account additional tube plugging. The NRC staff has evaluated this information and has assessed continued operation of the facility. This evaluation is set forth in the accompanying Safety Evaluation Report. Based on its review, the staff has concluded that operation of the facility, under the conditions previously imposed, may be continued for an additional period of six months and that the limitations con-

tained in this Order will provide reasonable assurance that the public health and safety will not be endangered by continued operation of Unit No. 4. This Order continues in effect the leakage and radioiodine concentration limits previously imposed and makes slight revision to the peaking factor limits presently contained in the facility Technical Specifications to reflect the revised ECCS analysis.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Environmental and Urban Affairs Library, Florida International University, Miami, Fla.: (1) the licensee's report of the steam generator inspections dated June 9, 1977 as amended on June 10, 1977 and June 28, 1977, (2) the Order for Modification of License, In the Matter of Florida Power and Light Co. (Turkey Point Plant Unit No. 4), Docket No. 50-251 dated February 8, 1977, (3) our Safety Evaluation Report dated February 11, 1977, applicable to our Order dated February 8, 1977, (4) the Order for Modification of License, In the Matter of Florida Power and Light Co. (Turkey Point Plant, Unit No. 4), Docket No. 50-251, dated May 3, 1977, (5) the licensee's letter of July 6, 1977, requesting approval to resume power operation of Turkey Point Unit No. 4, (6) the licensee's letters of July 27, 1977 and July 29, 1977, which evaluate operation with one or more steam generator tube plugs in the primary coolant system, and (7) this Order for Modification of License, In the Matter of Florida Power and Light Co. (Turkey Point Plant, Unit No. 4), Docket No. 50-251.

III.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Part 2 and 50, It Is Ordered That paragraph 3.D of Facility Operating License No. DPR-41 is hereby amended by the following new provisions:

D. STEAM GENERATOR OPERATION

1. Turkey Point Unit 4 shall be brought to the cold shutdown condition in order to perform an inspection of the steam generators after six equivalent months of Cycle 4 operation. Nuclear Regulatory Commission approval shall be obtained before resuming power operation following this inspection. For the purpose of this requirement, equivalent operation is defined as operation with a primary coolant temperature greater than 350° F.

2. Primary to secondary leakage through the steam generator tubes shall be limited to 0.3 gpm per steam generator. With any steam generator tube leakage greater than this limit, the reactor shall be brought to the cold shutdown condition within 24 hours. The leaking tube(s) shall be evaluated and plugged prior to resuming power operation.

3. The concentration of radioiodine in the primary coolant shall be limited to 1 microcurie/gram during normal operation and to 30 microcuries/gram during power transients.

4. Reactor operation shall be terminated and Nuclear Regulatory Commission approval shall be obtained prior to resuming operation if the reactor is required to shutdown due to primary to secondary leakage, as specified in paragraph 2, above, more than twice during a 20-day period.

5. The operation of the Metal Impact Monitoring System (MIMS) with the capability of detecting loose objects will be continued until the next reactor vessel inspection. In the event that the MIMS is out of service, it will be reported to the NRC. Any abnormal indications from the MIMS will also be reported to the NRC by telephone by the next working day and by a written evaluation within two weeks.

6. Following each startup from below 350°F, core barrel movement will be evaluated using neutron noise techniques.

7. On page 3.2-3 of the Technical Specifications for Turkey Point Unit No. 4, the peaking factor, Fq, is hereby reduced from 2.22 to 2.20 at rated power. This change will be incorporated in the Technical Specifications in a future amendment responding to your submittal of June 8, 1977.

Dated in Bethesda, Md., this 3rd day of August 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc.77-23197 Filed 8-10-77;8:45 am]

[Docket No. 50-321]

## GEORGIA POWER CO. ET AL.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for Operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes which will modify the Technical Specifications defining the surveillance schedule of Shock Suppressors (snubbers). The change will allow GPC to enter the visual inspection schedule for inaccessible snubbers on a 6-month inspection interval, if they all have been inspected, functionally tested and repaired to return them to within specifications, during a unit outage.

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 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 May 19, 1977, (2) Amendment No. 43 to License No. DPR-57 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. 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 5th day of August 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.77-23196 Filed 8-10-77;8:45 am]

[Docket No. 50-423]

## NORTHEAST NUCLEAR ENERGY CO., ET AL.[1]

### Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Northeast Nuclear Energy Company, et al., pursuant to Section 103 of the

[1] The following are the holders of Construction Permit No. CPPR-113: Ashburnham Municipal Light Plant, Boylston Municipal Lighting Plant, Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, City of Holyoke, Massachusetts Gas and Electric Department, the Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, The Hartford Electric Light Company, Marblehead Municipal Light Department, Massachusetts Municipal Wholesale Electric Company, Middleton Municipal Light Department, Montaup Electric Company, New England Power Company, North Attleborough Electric Department, Northeast Nuclear Energy Company, Paxton Municipal Light Department, Peabody Municipal Light Plant, Public Service Company of New Hampshire, Shrewsbury Light Plant, Templeton Municipal Lighting Plant, Town of South Hadley Electric Light Department, The United Illuminating Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Western Massachusetts Electric Company, Westfield Gas and Electric Light Department.

by 10 CFR Part 50, Appendix L. This information adds Central Maine Power Company as an owner of the Millstone Nuclear Power Station, Unit No. 3, and increases the ownership shares in the units for Massachusetts Municipal Wholesale Electric Company and Montaup Electric Company.

The information was filed by Northeast Nuclear Energy Company in connection with their application for a construction permit and operating license Atomic Energy Act of 1954, as amended, filed on April 18, 1977 and May 9, 1977, information requested by the Attorney General for Antitrust Review as required for a pressurized nuclear reactor. Northeast Nuclear Energy Company, et. al. was issued a construction permit on August 9, 1974 for the Millstone Nuclear Power Station, Unit No. 3. Construction is underway on a site located on the north shore of Long Island Sound, in the Town of Waterford, New London County, Connecticut.

The original antitrust portion of the application was submitted on October 31, 1972 and the Notice of Receipt of Application for a Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595). The Notice of Hearing was also published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Central Maine Power Company and the Massachusetts Municipal Wholesale Electric Company presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before September 26, 1977.

Dated at Bethesda, Maryland, this 21st day of July, 1977.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
*Chief, Light Water Reactors Branch No. 3, Division of Project Management.*

[FR Doc.77-21776 Filed 7-27-77;8:45 am]

## REGULATORY GUIDE

### Issuance and Availability

The Nuclear Regulatory Commission has issued a new 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 1.130, "Design Limits and Loading Combinations for Class 1 Plate-and-Shell-Type Component Supports," delineates acceptable design limits and appropriate combinations of loadings associated with normal operation, postulated accidents, and specified seismic events for the design of ASME Code Class 1 plate-and-shell-type component supports.

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. Public comments on Regulatory Guide 1.130 will, however, be particularly useful in evaluating the need for an early revision if received by October 7, 1977.

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 2nd day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
*Director, Office of Standards Development.*

[FR Doc.77-23198 Filed 8-10-77;8:45 am]

## RISK ASSESSMENT REVIEW GROUP

### Meeting

NOTE.—This document originally appeared at page 40289 in the FEDERAL REGISTER for Tuesday, August 9, 1977. It is reprinted in this issue to meet the assigned-day-of-the-week publication schedule.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of an open meeting of the Risk Assessment Review Group of the U.S. Nuclear Regulatory Commission (NRC), to be held at 9:00 a.m. on August 24 and 25, 1977 in Room 1062 of the Matomic Building, 1717 H Street NW., Washington, D.C.

On July 7, 1977 (42 FR 34955), NRC announced the establishment of the Review Group for the purpose of providing advice and information to the Commission regarding the final report of the Reactor Safety Study, WASH 1400 (NUREG-75/014), and the peer comments on the Study, advice and recommendations on developments in the field of risk assessment methodology and future courses of action which should be taken to improve this methodology and its application. The Review Group will submit a report to the Commission on or before December 31, 1977.

In carrying out these assignments, it is anticipated that a number of working sessions will be scheduled at different locations, with notification to the public well in advance of each meeting. It is anticipated that all sessions of the Review Group will be open to the public.

The purpose of the instant meeting is to review peer comments on the final report of the Reactor Safety Study. Peer group comments on the final report of the Study include testimony presented to Congressional Committees and the Advisory Committee on Reactor Safeguards, letters to NRC, technical articles, such other information as may come to the attention to the Review Group. The Review Group will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants and with commentators on the Study. At the conclusion of these presentations, the Review Group may caucus to determine whether the matters identified have been adequately covered. The Chairman of the Review Group 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 session from one day to the next.

With respect to public participation in 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 Review Group at the beginning of the meeting. Comments should be limited to areas within the Group'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 August 17, 1977 to Dr. John H. Austin, Office of Policy Evaluation, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Comments should be based on the final report of the Reactor Safety Study, copies of which are available for public inspection at:

1. The NRC Public Document Room, 1717 H Street, N.W., Washington, 20555.

2. The NRC's five Regional Offices of Inspection and Enforcement:
Region I, 631 Park Avenue, King of Prussia, Pa. 19406.

Region II, Suite 1217, 230 Peachtree Street, Atlanta, Ga. 30303.
Region III, 799 Roosevelt Road, Glen Ellyn, Ill. 60137.
Region IV, Suite 1000, 611 Ryan Plaza Drive, Arlington, Tx. 76012.
Region V, Suite 202, 1990 N. California Boulevard, Walnut Creek, Calif. 94596.

Copies of the Final Report may be obtained from:

U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Probabilistic Analysis Branch, Att: Melea S. Fogle (telephone: 301-492-8377), 7735 Old Georgetown Road, Bethesda, Md. 20014.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangement can be made. The time allotted for such statements will be at the discretion of the Chairman. The Review Group 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 August 23, 1977 to the Office of Policy Evaluation (telephone 202-254-5184, Attn: Dr. John H. Austin) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Review Group.

(e) Statements of views or expressions of opinion made by members of the Review Group at open meetings are not intended to represent final determinations or beliefs.

(f) 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 not be permitted during the meeting.

(g) A copy of the minutes of the meeting will be available for inspection on or after October 24, 1977, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies may be obtained upon payment of appropriate charges.

Dated: August 8, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77-23120 Filed 8-6-77;8:45 am]

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[Docket No. PRM-30-55]

## STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Filing of Petition for Rulemaking

Notice is hereby given that the State of New Jersey through its Department of Environmental Protection, by letter dated May 31, 1977, has filed with the Nuclear Regulatory Commission a petition for rulemaking.

The petitioner requests the Commission to:

(a) Establish criteria to quantify the "as low as readily achievable" emission reduction policy for major facilities using byproduct materials from man-made fission reactions and require existing plants to meet these criteria;

(b) Establish siting criteria for all such facilities as a basis for the evaluation of the acceptability of new plant locations in terms of radiation doses to the general public; and

(c) Require all existing and new byproduct material facilities to develop and implement off-site environmental surveillance programs so that the NRC and all other interested persons have current information as to the levels of radioactivity in the environment around such facilities.

The petitioner states that the Commission has radiation standards and criteria for facilities using byproduct material from man-made fission reactions as raw materials which differ drastically from the standards for nuclear power plants. The petitioner makes a comparison between a nuclear power plant and a radiopharmaceutical plant and states that a nuclear power plant, with its sophiscated control equipment, is designed to handle a number of different types of potential accidents and still keep the radiation exposure to the public within acceptable limits. The petitioner states further that a radiopharmaceutical plant does not have the same capabilities and an accident, should it occur, could release greater quantities of radioactive material into the environment than would occur during normal operating conditions.

In further support of the petition the petitioner states that because byproduct material plants have unrestricted siting, there are many more people in the vicinity of the byproduct material plants than near nuclear power plants. The petitioner asserts that the use of better controlled equipment than that presently installed would not only reduce the normal radiation exposure to the public, but would also be insurance against the adverse health consequences of an accidental release.

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

A copy of the petition for rulemaking may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All interested persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by October 11, 1977.

Dated at Washington, D.C. this 3rd day of August, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.77-22805; Filed 8-10-77;8:45 am]

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## NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-32]

### SAFETY RECOMMENDATIONS AND RESPONSES

#### Availability and Receipt

*Marine Safety Recommendations M-77-8 through 14.*—The National Transportation Safety Board has issued seven safety recommendations as a result of its participation in the ongoing U.S. Coast Guard Marine Board of Investigation into the collision of the SS MARINE FLORIDIAN with the Benjamin Harrison Bridge. The Class II, Priority Followup recommendations were issued August 4 to the Coast Guard.

The accident occurred last February 24 as the bulk sulfur carrier, in ballast, was downbound from Hopewell, Virginia, in the James River en route to Newport News for fueling. About 2 miles downriver, the MARINE FLORIDIAN veered to the left (north) of the channel and the lifted center span of the bridge and collided with the northern truss of the bridge.

A section of the northern approach causeway and two highway motor vehicles fell into the river on the portside of the vessel. The northern end of the northern truss span, which was displaced from its supporting pier by the ship, collapsed downward and came to rest on the main deck of the ship until March 6 when that span and the northern main tower of the bridge further collapsed onto the ship and into the river. The bridge was damaged extensively and will require substantial rebuilding. The MARINE FLORIDIAN suffered considerable damage to the deckhouse and other damage to deck-level structures and equipment.

The persons who were in the motor vehicle escaped back from the span, and no one was injured on the ship. Likewise, there were no injuries when the bridge further collapsed onto the ship.

Although investigation has not been completed, evidence indicates that the MARINE FLORIDIAN experienced a loss of rudder control; the precise reason for that loss has not yet been determined. However, the steering casualty alarm in the engineroom did not activate when power apparently was lost to the port steering motor, and a manual transfer switch in the port electric power circuit had a mechanical fault of possible critical, but not yet determined, consequence.

The Safety Board finds that this casualty and others, and the potentially catastrophic consequences of steering failures, indicates a need to further upgrade rudder control and alarm systems.

Steering gear tests, operating procedures, and inspections should be improved to assure more reliable vessel control. Accordingly, the Safety Board recommends that the Coast Guard—

Amend 46 CFR 111.80-70(f) (1) and (2) to require the installation of a pilot light and an audible alarm to indicate power interruption to steering gear motors in the wheelhouse independent of, and in addition to, those currently required to so indicate at the propulsion control station. (M-77-8)

Amend 46 CFR 111.01 and 111.90 to make the provisions of 46 CFR 111.80-70(c) (2) and 111.80-70(e) applicable to vessels equipped with electric-powered steering gear and contracted for prior to November 19, 1952, which would require the removal of motor-running protective devices; the installation of protective devices responsive to motor current, temperature, or both; and the installation of interlocks to prevent both steering systems from being connected to the same feeder circuit simultaneously. (M-77-9)

Amend 46 CFR 35.20-10, 78.17-15, and 97.-15-3, and 33 CFR 164.25 to require addjional specific steering gear tests, including the switching from one steering gear control system to the other, from hydraulic control to electrical control and back; from one source of electric power for the steering motors to the other and back; and the activation of alarm systems by stimulation of power interruption to each of the steering motors. (M-77-10)

Amend regulations to require the upgrading to meet current standards of all systems vital not only to onboard safety but also to vessel control whenever an oceangoing vessel is modernized, lengthened, rebuilt, or converted to another service. (M-77-11)

Undertake further rulemaking to amend 33 CFR 164.15 to require, when steering gear rooms are required to be manned, that the persons assigned are competent and trained to switch the steering gear to all alternate modes and control systems, and to require that the person manning the steering engineroom is in communication with the wheelhouse. (M-77-12)

Make a special one-time inspection of manual transfer switch installations, such as that found in the MARINE FLORIDIAN, on a representative number of vessels; and based on the findings, change steering gear inspection procedures to assure that mechanical faults in the electrical system are identified and corrected during future periodic inspections. (M-77-13)

RESPONSES TO SAFETY RECOMMENDATIONS

*Aviation: A-71-18.*—In response to the Safety Board's inquiry of June 28 (42 FR 36331, June 14, 1977) as to the status of notice of proposed rulemaking 74-21A, the Federal Aviation Administration on July 27 reported that the review of public comments on the proposal has been completed and that final action is being prepared. FAA expects to complete action next month. The proposal relates to safety recommendation A-71-18.

*Aviation: A-77-20 through 22.*—Federal Aviation Administration's letter of July 28 comments on the recommendations issued following investigation of the crash of a Cessna 310J at Rockford, Illinois, last January 3. (See 42 FR 24131, May 12, 1977.)

Recommendation A-77-20 asked FAA to issue an airworthiness directive requiring that all Cessna Model 310 airplanes with an auxiliary fuel system installed be placarded, in the cockpit, to caution pilots that only 30 minutes flight time may be available when using auxiliary tanks. After examining Safety Board summaries of 34 Cessna 310 accident reports in which fuel starvation is listed as a contributing factor, FAA states that it did not find any evidence that any of the accidents would have been prevented by an auxiliary fuel tank "flight time" capacity placard. FAA further states, "Fuel consumption and by-pass rates are functions of many variables: power settings, mixture, altitude, temperature, engine condition, etc. We believe that a placard reference to flight time capacity of an auxiliary fuel tank is not realistic and could, in some cases, create a safety problem."

Recommendation A-77-21 asked FAA to require, for all new airplanes in which some auxiliary fuel is returned to tanks other than the auxiliary tanks, that the flight manual or approved manual material specifies the amount of fuel returned to another tank and the flight time available when using the auxiliary tanks. FAA reports that final action is being taken to adopt notice of proposed rulemaking 75-25 which proposes that airplanes delivered after a certain date be provided with approved flight manuals. Also, instructions to FAA field offices for pilot operating handbook approval are in preparation. Present Owner's Manuals are not FAA approved. The Cessna 310 manuals contain information on the fuel system including the by-pass from the auxiliary tanks back to the main tanks. FAA believes that specifying the amount of fuel retrieved to another tank and flight time available in auxiliary tanks is not feasible.

Re A-77-22, which asked FAA to require that district accident prevention specialists disseminate this information as widely as possible among Cessna 310 pilots, FAA reports that for the past year its general aviation accident prevention specialists have been using a slide-tape presentation on fuel management, entitled "Time in Your Tanks." The presentation stresses the need for pilot knowledge of fuel systems, capacity, consumption rates, and maintenance of fuel reserves. FAA says that other slide-tape presentations and lectures used in program activities also stress the importance of knowledge of aircraft fuel systems, checklists, preflight checks of fuel quantity and flight planning including fuel requirements. FAA believes that these types of presentations are more effective industrywide than those related to specific makes and models.

*Aviation: A-77-36 and 37.*—Federal Aviation Administration's letter of August 1 is in response to recommendations made after the Safety Board investigated several aircraft accidents which occurred at DuPage County Airport, Illinois, shortly after 2200:00, the nightly closing time for the air traffic control tower. (See 42 FR 29579, June 9, 1977.)

Recommendation A-77-36 asked FAA to delegate control of all DuPage Airport's light systems and components to the Chicago Flight Service Station when the DuPage control tower is not operational. FAA reports that action has been initiated to provide remote control capability of DuPage Airport's runway edge lights to the Chicago Flight Service Station located on the DuPage Airport. Further, until such time as the dual lighting controls are installed, DuPage County Tower operating hours have been extended from 6 a.m. to midnight, 2 hours longer than its previous duty period. FAA states, "It is also required that the DuPage ATIS operate continuously during the non-duty period. In addition to the tower's non-operational status, the ATIS announces what lighting is available and that it cannot be controlled or altered during the midnight hours."

In answer to A-77-37, which asked FAA to survey all airports with published instrument approach procedures and with control towers which do not operate continuously to assure that the airport lights can be controlled by another FAA facility or by a pilot when the control tower is not operational, FAA reports completion of the recommended survey. FAA has determined that of the 215 control tower locations falling within this category, 65 are collocated with a Flight Service Station, 56 of which have the capability to control airport light systems during the tower's non-duty status. That capability will be extended to additional locations this year, FAA said. At present, 10 airport lighting systems are pilot controlled.

FAA further notes that responsibility for operating airport lights at the remaining 140 sites basically rests with the airport manager/operator when the tower is closed. Tower personnel set the light controls as directed by the Facility Management Handbook, 7210.3C, or as set forth in a letter of Agreement with airport authorities prior to closing the facility for the day. In addition, provisions of Order 7210.3C have been expanded to require part-time towers to annnounce the termination/resumption of air traffic control service at closing/opening times. This information is disseminated to pilots via radio and other interested air traffic facilities via telephone/interphone, FAA states.

*Railroad: R-76-56 and 57.*—The Association of American Railroads (AAR), by letter of July 26, provides the Safety Board with additional comments on recommendations issued as a result of investigation of the May 5, 1976, autotrain derailment at Jarratt, Virginia. AAR's initial response to these recommendations was forwarded to the Board last December 27 (42 FR 3907, January 21, 1977). These recommendations asked AAR to establish a system to insure that wheels exposed to critical temperatures are removed from service before inservice failure occurs (R-76-56) and a system to insure that wheels exposed or suspected of being exposed to critical temperatures are reported by railroad employees (R-76-57).

In its July 26 letter, AAR notes regarding overheated wheels that a great deal of effort has been devoted to (1) determining the failure mechanism, (2) means of reducing potential catastrophic failures, and (3) feasible methods for detecting a wheel which is approaching the limit beyond which a failure can occur. AAR states that no fundamental solutions can be found until the failure mode is better described and improvements in technology enable identification of a wheel which is approaching failure.

AAR reports that a great number of programs sponsored by the Department of Transportation, AAR and others, either jointly or separately, are looking into wheel failure as related to design, fracture mechanics, stress analysis, etc. AAR and others have developed computer analysis models to determine wheel stresses resulting from environmental conditions which include uniform heating from brake application. The AAR model, culmination of a five-year program, compares the capability of various wheel designs to withstand normal environmental stresses. It does not deal with inelastic behavior, AAR states, and therefore it cannot at this time establish the residual stress pattern in the wheel. AAR says that no known analytical method can deal with this problem. AAR has under contract a study that may lead to a solution, but results cannot be anticipated with certainty. The AAR-developed wheel design analysis model will be made available at no cost to wheel manufacturers for use in wheel design and will be used by AAR to insure that current designs conform to minimum acceptable standards.

For a number of years, AAR has taken steps to improve resistance to thermal cracking in wheels. AAR states, "The maximum carbon content of new wheels has been systematically reduced within the last twenty years from 1.5% to 1.0% to 0.8% to increase resistance to thermal cracking (at the expense of wear resistance)." AAR reports that railroads are currently removing from service existing wheels, manufactured by one company, which have a carbon content in excess of 0.8% and which are more susceptible to thermal cracking than other wheels. These wheels are marked on the plate, not on the rim. AAR says that further consideration will be given to change in metallurgy of new wheels to reduce possibility of thermal cracks. AAR has, for some time, been reviewing the pros and cons of marking wheel information on rims.

AAR states that a great deal of effort is needed in the area of defining what an overheated wheel really is, by what mechanism an overheated wheel fails, and how harmful overheating may be detected. Within the limits of available knowledge, AAR says it has prescribed a visual means of identifying an overheated wheel, i.e., discoloration halfway into the plate area. This discoloration arises from oxidation of the heated metal.

The development of a method for detection of potential wheel failures from excessive heat, according to AAR, depends in great measure upon solving the above problems. To implement recommendation R-76-56, AAR states, would require "a system that provides for a response from an indicator which establishes that a potential for failure exists and that the wheel must be removed from service." "Failing that," AAR states, "a rugged failsafe, portable, cost-feasible device is required to detect incipient failure. Such a method would be useful in detecting all potential failures in wheels, whether or not overheating has occurred because, ultimately, wheel failures involve fracture initiation and propagation." AAR has programs in all of these areas and will cooperate with the Federal Railroad Administration and others to expedite solutions to wheel failure problems.

### Safety Board Comments on Coast Guard's Proposed Rulemaking

On August 4 the Safety Board forwarded to the U.S. Coast Guard comments on notice of proposed rulemaking CGD 74-125, published June 27 at 42 FR 32700. The Board agrees with and supports Coast Guard's proposal in general to revise subchapter J of Title 46, Code of Federal Regulations, but has some reservations, as indicated below.

The Board is concerned that the proposed regulations would perpetuate the current standards for electrical equipment on existing vessels even though the standards are inadequate. The need to update certain installations to current standards is particularly apparent in the steering systems on existing vessels and is recognized by recent Coast Guard proposed rulemaking (CGD 77-063) to amend 33 CFR Part 157 which would establish additional requirements for steering systems on existing oil tankers of 20,000 dwt. or more. The Board believes that most of the requirements of both of these proposals for steering gear installations should be applicable not only to oil tankers of 20,000 dwt. but to all ocean going vessels of 1,600 gross tons and more, and to existing as well as to new vessels.

A copy of the seven recommendations issued August 4 to the Coast Guard in connection with the MARINE FLORIDIAN accident (see above) accompanied the Safety Board's letter commenting on CGD 74-125. Those recommendations express the Board's concern for steering gear and other ship control system installations in existing vessels.

The Board notes that CGD 74-125 would abolish the current electrical engineering regulations and replace them with new regulations. Electrical equipment and systems installed before the effective date of these new regulations would be required to meet the specifications in effect at the time of the installation. Therefore, there would be no regulations in effect for existing vessels except by reference in the new regulations. It would be impossible to amend or to upgrade the requirements for existing vessels since there would be no regulations in effect to be amended. Also, industry and Coast Guard inspectors would be required to maintain and to use the old regulations for all maintenance and inspection activities on existing vessels for many years to come; this could cause considerable confusion. The Board suggests that the current regulations be retained for existing vessels.

The Board believes that these proposed regulations encourage the use of National Electric Code practices for circuit installations and equipment design aboard ships. These proposed regulations are placing greater reliance on obtaining satisfactory electrical shipboard installations by shifting some of the approving responsibilities from the technical field offices to the on-site inspectors. The Board believes that if these changes are to proceed without reduction in the safety of shipboard electrical installations, then a well planned program should be implemented for upgrading the electrical inspection training given to Coast Guard inspectors.

The Board provides the following comments with reference to specific sections of the proposed regulations:

111.10-7(a). This will comply with the intent of Board recommendation M-73-7 of the STEEL VENDOR casualty report for new vessels. However, some existing vessels will still be exposed to the hazard of having no designed means of starting from a dead ship plant at sea. This requirement should be extended to existing vessels which undergo alterations to lengthen their useful life.

111.30-1(d). This section should provide the protection intended by the Board's recommendation made as a result of the SS TRANSHURON stranding at Kiltan Island on September 26, 1974.

111.75-17(b). The proposal to extend the requirement for navigation light indicator panels to all self-propelled vessels is endorsed by the Board. The Board believes, however, that this should be further extended to provide for an automatic panel to monitor the navigation lights on push-towed vessels which often are navigating restricted and congested waterways. Also, the increasing size and number of such towboat-barge combinations, and the variety of dangerous cargoes they can carry justify a requirement for automatic monitoring of their navigation lights. The Board previously proposed this requirement in recommendation M-73-4 which stemmed from the collision between the M/V JAMES L. HAMILTON, M/V LASALLE, and tow and motorboat OH-5421-MC, August 14, 1971.

111.93-7(c)(2). Section 111.80-70(d)(3) now provides that selection of the steering system in the pilothouse will automatically start the steering gear power motor and that "any ancillary device necessary to activate * * * shall be automatically operated upon starting the steering gear power motor." The Board finds that this is significantly different than the proposed "automatically energizes the steering control system and steering power system * * *." The regulations should make it clear that the intent is to switch automatically the entire steering power and control system in one action of the control switch in the wheelhouse.

111.93-11(a). This section should require the pilot light to indicate at the main machinery control station in addition to in the pilothouse. The Board recently proposed both locations in a recommendation as a result of the MARINE FLORIDIAN accident.

111.93-11(b). The Board strongly supports this section as recently recommended in the MARINE FLORIDIAN case.

111.93-11(c). The failure of any phase of a three-phase supply should be indicated at the main machinery control station by an audible and visual alarm in addition to those indications in the wheelhouse as proposed by this action.

112.50-1. The Board believes that a requirement should be added to this section for an overspeed limiting device for diesel emergency generators identical to that requirement contained in section 111.121(b) for diesel engine prime movers.

113.40-10. Safety Board recommendation M-74-17 proposed that rudder angle indicators should be visible from all conning positions. This section continues to provide for one indicator only, to be in the direct line of vision of the helmsman. The Board believes that repeaters should be provided so that they are visible at other locations, especially from the bridge wings, for use by those directing steering orders to the helmsman.

NOTE.—The above notice is comprised of summaries of a safety recommendation letter made available, and responses to recommendations received, during the week preceding publication of the notice in the FEDERAL REGISTER. The recommendation letter in its entirety is available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations and other Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
*Federal Register Liaison Officer.*

AUGUST 8, 1977.

[FR Doc.77-23246 Filed 8-10-77;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 20128; 70-6036]

### ALABAMA POWER CO.

### Proposed Issuance and Sale of Preferred Stock and First Mortgage Bonds at Competitive Bidding

AUGUST 4, 1977.

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, a public-utility subsidary company of The Southern Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Alabama proposes to issue up to 500,000 shares of its Preferred Stock, with a par value of $100 per share (the "new Preferred Stock"), and to sell such securities at competitive bidding for the best price obtainable but for a price to Alabama of not less than $100 per share nor more than $101.75 per share, which shall also be the public offering price of such shares. In addition, Alabama proposes to pay to the purchasers of the new Preferred Stock compensation for the purchase or underwriting of the shares.

The terms of the new Preferred Stock will be established by resolution of the board of directors of Alabama. Although no such determination has yet been made, Alabama may, if it deems it desirable to do so, make provision for a cumulative sinking fund for the benefit of the new Preferred Stock which would retire not more than 5 percent annually of the number of shares initially issued, commencing five years after the sale, with the noncumulative option on any sinking fund date, commencing five years or later after the sale, of redeeming an additional like number of shares.

Alabama proposes to issue up to $200,000,000 principal amount of its First Mortgage Bonds of one or more series having a term or terms of not less than five years nor more than 30 years (the "new Bonds") and to sell such bonds at competitive bidding for the best price or prices obtainable but for a price or prices to Alabama of not less than 98 percent nor more than 101¾ percent of the principal amount thereof, plus accrued interest. Alabama may request by amendment hereto that such sale be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of Alabama's management, make such exception in the best interest of Alabama and its investors and consumers.

The new Bonds will be issued under the Indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented by various indentures supplemental thereto and as to be further supplemented by one or more Supplemental Indentures to be dated as of October 1, 1977.

Alabama states that it is difficult to determine, under present bond market conditions, whether it would be more advantageous to Alabama to sell new Bonds having a 30-year or some shorter term. Alabama states that it is in the public interest that Alabama be afforded the necessary flexibility to adjust its financing program to developments in the markets for long-term debt securities when and as they occur in order to obtain the best possible price, interest rate and term for its new Bonds. Alabama proposes, therefore, that Alabama decide whether to issue the new bonds in one or more series and to specify the term of the new Bonds in the registration statement or statements to be filed in respect thereto or in an amendment to such registration statement or statements.

Alabama states that if in the case of a single series the term of the new Bonds has not been determined prior to the date of public invitation for proposals, Alabama will notify prospective bidders by telephone, confirmed in writing, of its decision, not less than 72 hours prior to the time of the bidding.

Alabama proposes to use the proceeds from the sale of the new Preferred Stock and the new Bonds, along with (1) funds received in July, 1977 from the sale of $100,000,000 principal amount of First Mortgage Bonds, 8¾ percent Series due July 1, 2007, (2) $39,417,000 of funds from tax-exempt bond issues of public authorities for financing certain of Alabama's pollution control facilities, (3) $95,000,000 of additional equity funds from The Southern Company and (4) $23,470,000 from the net change in notes payable, from other financings of types and in amounts to be determined and from usual internal sources, to finance its 1977 construction costs, estimated to be $497,147,000, to pay a portion of notes payable for such purpose and to retire $10,740,000 principal amount of first mortgage bonds.

The fees and expenses to be incurred in connection with this transaction are to be filed by amendment. It is stated that the issuance and sale of the new Bonds have been expressly authorized by the Alabama Public Service Commission which has jurisdiction over the issuance of securities by public utility companies operating in Alabama. It is further stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address; and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23147 Filed 8-10-77;8:45 am]

[Release No. 34-13828; File No. SR-Amex-77-19]

## AMERICAN STOCK EXCHANGE, INC.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Public Law No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 27, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

AMEX'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Amex proposes to rescind Rule 482, which prevents Amex members from entering their quotations in listed securities in over-the-counter quotation sheets and NASDAQ.

The Text of the proposed rule change is attached as Exhibit A.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing rule change is as follows:

The purpose of the proposed rule change is to permit Amex members to act as market makers in issues which have been suspended from trading by the Exchange and are exempt from the restrictions on off-board principal transactions set forth in Amex Rule 5, and otherwise to make use of available facilities for dissemination of quotation information.

Rule 482 is proposed to be rescinded to remove a burden on the activities of Amex members which the Exchange has determined serves no compelling regulatory purpose.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Person desiring to make written submissions should file six copies thereof with the Secretary of Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file No. SR-Amex-77-19.

The Commission has found that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission has found good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This rule change will permit Amex members to make use of available facilities for dissemination of quotation information and thereby remove a burden on competition in accordance with certain provisions of the Act, including Sections 6(b)(5), 6(b)(8), and 11A(a)(1)(C).

The Commission has ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

AUGUST 4, 1977.

GEORGE A. FITZSIMMONS,
*Secretary.*

EXHIBIT A

AMERICAN STOCK EXCHANGE, INC.

Rule 482 of the American Stock Exchange is proposed to be rescinded in its entirety as follows:

[Advertising in Quotation Sheets

Rule 482. No member, member firm or member corporation may for his own account or for an account in which he has an interest list his name in quotation sheets having a strictly professional clientele with respect to Common Stocks, Warrants, or American Depository Receipts (ADR's) representing equity securities other than preferred stock issues, dealt in on the Exchange.]

[FR Doc.77-23144 Filed 8-10-77;8:45 am]

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[Release No. 20124; 70-6015]

## APPALACHIAN POWER CO. AND OHIO POWER CO.

### Proposed Guaranties by Subsidiaries of New Coal Mining Equipment Lease Obligations To Be Incurred by Second-Tier Subsidiaries

AUGUST 3, 1977.

Notice is hereby given that Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24009, and Ohio Power Company ("Ohio"), 301 Cleveland Avenue, S.W., Canton, Ohio 44702, electric utility subsidiary companies of American Electric Power Company, Inc., a registered holding company, have filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 12(b) of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Appalachian and Ohio propose to enter into Guaranty Agreements (each of which is hereafter referred to as a "Guaranty" and collectively as the "Guaranties") in favor of Manufactures Hanover Leasing Corporation ("MHLC") under which they each would unconditionally guarantee the obligations of certain of their coal mining subsidiaries under leases for new mining and related equipment to be entered into between each of such coal mining subsidiaries and MHLC. The coal mining subsidiaries of Appalachian whose lease obligations are to be guaranteed by Appalachian are: Cedar Coal Company ("Cedar") and Central Appalachian Coal Company ("Central Appalachian"). The coal mining subsidiaries of Ohio whose lease obligations are to be guaranteed by Ohio are: Southern Ohio Coal Company ("Southern Ohio") and Windsor Power House Coal Company ("Windsor"). These coal mining subsidiaries of Appalachian and Ohio (each of which is hereafter referred to as a "Mining Subsidiary" and collectively as the "Mining Subsidiaries") each propose to enter into an identical Master Lease Agreement (hereafter referred to as a "Lease" and collectively as the "Leases") with MHLC, under which MHLC will commit to lease new mining and other equipment to the Mining Subsidiaries having an aggregate cost to MHLC not exceeding $6,500,000 in 1977 and $6,500,000 in 1978. At the option of the Mining Subsidiaries, prior to December 1, 1977 MHLC will commit to lease equipment costing an additional $7,000,000 in 1978 on the same terms, provided that MHLC is able to utilize the Federal investment tax credit with respect to the additional amount.

The proposed form of Lease between MHLC and each of the Mining Subsidiaries provides that the equipment shall be leased for an initial term of 5, 6, 7, 8, 10 or 12 years, depending on the type of equipment, but with certain restrictions as to the cost to MHLC of, and the initial lease terms for, certain types of equipment. Rent will be payable quarterly in arrears.

Tabulated below, for each initial term, are the stated quarterly payments per $1,000 of cost, and resulting effective annual interest cost:

| Initial term | Quarterly payment (per $1,000 of cost) | Effective annual interest cost, percent |
|---|---|---|
| Years: | | |
| 5 | $54.06 | 3.67 |
| 6 | 47.60 | 4.37 |
| 7 | 40.80 | 3.77 |
| 8 | 36.73 | 4.04 |
| 10 | 31.63 | 4.80 |
| 12 | 28.15 | 5.21 |

It is stated that such effective annual interest cost represents the rate of return to the lessor of an investment of $1,000 repaid in quarterly amounts, over the periods indicated above.

It is further stated that: (1) the lessee will have the option to renew the Lease as to any or all equipment, (a) under least terms of 5 to 10 years, for two 1-year terms or one 2-year term, and (b) under a lease term of 12 years for four 1-year terms, two 2-year terms or one 4-year term, at a rent equal to the then fair market rental value; (2) the lessee will have the option to purchase any or all of the equipment at the end of the initial term or any renewal term for a price equal to its then fair market value; (3) the lessee will have the right to assign the lease or sublease the equipment to any affiliate without prior approval of MHLC, and the option to assign the lease or sublease the equipment to non-affiliates with the prior approval of MHLC, but in case of any assignment the lessee will not be released under the lease; (4) the lessee will have the option to terminate the lease as to any or all of the equipment because of economic ob-

solescence of the equipment for the lessee's needs, by selling such equipment to a buyer other than itself or its affiliates and paying MHLC the higher of the sale price or the then stipulated loss value at any time after (a) the 3rd year of a 5-year term, (b) the 4th year of a 6-year term, (c) the 5th year of a 7- or 8-year term, and (d) the 7th year of a 10-year or 12-year term; and (5) the Lease will be a net lease under which the lessee is responsible for all expenses; the Federal investment tax credit will be for the account of MHLC.

It is stated that MHLC has received a commitment fee equal to ½ of 1% of the 1978 lease line of $6,500,000 ($32,500) and, in addition, will be entitled to a fee of ½ of 1 percent of the unused portion of the 1977 and 1978 lease lines (including the additional $7,000,000 if made available by MHLC and accepted by the Mining Subsidiaries), payable on January 4, 1978 and January 4, 1979, respectively.

It is further stated that the currently anticipated lessor's cost of equipment to be leased by each mining subsidiary under the lease lines for which MHLC has given a firm commitment is as follows:

| | ($000's) | |
|---|---|---|
| | 1977 | 1978 |
| Cedar | $3,000 | $5,750 |
| Central Appalachian | 300 | ..... |
| Southern Ohio | 2,850 | 750 |
| Windsor | 350 | ..... |
| Total | 6,500 | 6,500 |

Declarants will report quarterly, pursuant to Rule 24, the equipment that has been leased. It is not contemplated that any of the leased equipment will be used by affiliates or non-affiliates of the Mining Subsidiaries. Any such uses which may develop will be subject to further order of this Commission.

Each Guaranty provides that the guarantor, Appalachian or Ohio as the case may be, unconditionally and irrevocably guarantees the payment of all amounts of any kind payable by its Mining Subsidiary, and the due and punctual performance by its Mining Subsidiary of the terms, conditions, covenants, agreements and indemnities of its Mining Subsidiary, under the terms of the respective Mining Subsidiary's Lease. The Guaranties do not contain any cross-default provisions and neither Appalachian nor Ohio will be liable under the Guaranties with respect to the Lease obligations of the other's Mining Subsidiaries.

Appalachian and Ohio state that it is in their best interest to guarantee the obligations of their respective Mining Subsidiaries under the Leases, because the Mining Subsidiaries supply coal primarily to their respective parents for use at their coal-fired generating stations and the new mining equipment to be obtained under the Leases will, therefore, directly contribute to the maintenance and improvement of Appalachian's and Ohio's fuel supply operations. It is believed that the proposed Leases between the Mining Subsidiaries and MHLC represent the least expensive of the various available methods of financing the acquisition of the new equipment, and that MHLC would not enter into lease arrangements with the Mining subsidiaries without the guaranties of their respective parents.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $40,000, including commitment fees to be paid MHLC for the 1978 lease line of $32,500. Not included in this estimate are additional fees equal to ½ of 1 percent of the unused portion, if any, of the 1977 and 1978 lease lines. It is stated that the State Corporation Commission of Virginia and the Public Service Commission of West Virginia have jurisdiction over the proposed transaction as to Appalachian, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23137 Filed 8-10-77;8:45 am]

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[File No. 1-4660]

## BELL INDUSTRIES

### Application To Withdraw From Listing and Registration

AUGUST 4, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the Company has concluded that the costs of maintaining the listing on both exchanges outweighs the benefits to be derived therefrom.

The American Stock Exchange, Inc. has not objected to this application, and this security also remains listed and registered on the Pacific Stock Exchange Incorporated.

Any interested person may, on or before August 25, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23138 Filed 8-10-77;8:45 am]

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[File No. 1-6915]

## CHOMERICS, INC.

### Application To Withdraw From Listing and Registration

AUGUST 3, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

As a result of low trading volume on the Exchange in recent years (1975 and 1976), the Company has concluded that the expenses of maintaining the listing on the Exchange outweigh the benefits to be derived therefrom.

The Boston Stock Exchange, Inc. has not objected to this application, and the Company will be subject to Section 12(g) reporting requirements.

Any interested person may, on or before August 24, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the

application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23139 Filed 8-10-77;8:45 am]

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[Rel. No. 20127; 70-6034]

## GEORGIA POWER CO.

### Proposed Acquisition of Utility Assets by Operating Subsidiary

AUGUST 4, 1977.

Notice is hereby given that Georgia Power Company ("Georgia"), 270 Peachtree Street, NW., Atlanta, Georgia 30303, a wholly-owned subsidiary of The Southern Company ("Southern"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9(a)(1) and 10 of the Act as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Georgia proposes to purchase from Savannah Electric and Power Company ("Savannah"), a corporation organized and existing under the laws of the State of Georgia, a certain 115KV transmission line located in Bryan County, Georgia. The transmission line is approximately 14 miles long and interconnects the systems of Georgia and Savannah. The purchase price is stated to be $334,598.77 in cash and said price is stated to represent the trended original cost less depreciation of the depreciable portion of such property and the current replacement cost of the land and other non-depreciable portion of such property.

Georgia states that the proposed purchase will change the point of division of ownership of the line between Georgia and Savannah. Georgia further states that it believes that the line can be best maintained and operated by changing such point and that it expects to maintain and operate the transmission line in essentially the same manner and for essentially the same purposes as theretofore maintained and operated by Savannah.

It is stated that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed acquisition. The fees and expenses to be paid or incurred, directly or indirectly, in connection with the proposed transaction are estimated to be $6,500.

Notice is further given that any interested person may, not later than August 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23148 Filed 8-10-77;8:45 am]

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[Release No. 20126; 70-6035]

## GULF POWER CO.

### Proposed Acquisition of Utility Assets by Operating Subsidiary

AUGUST 4, 1977.

Notice is hereby given that Gulf Power Company ("Gulf"), 75 North Pace Boulevard, P.O. Box 1151, Pensacola, Florida 32520, a wholly-owned subsidiary of The Southern Company ("Southern"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 9(a)(1) and 10 of the Act as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Gulf proposes to purchase from Florida Power Corporation ("Florida"), a corporation organized and existing under the laws of the State of Florida, a portion of a certain 115KV transmission line located in Bay County, Florida. The affected portion of the transmission line, a facility for local distribution of electric power, is located beyond the point of interconnection of the Gulf and Florida systems and is approximately 2.1 miles long. It is stated that Gulf is to pay a cash purchase price of $146,090 for such portion of the transmission line. The depreciated value of said property is stated to be $229,614.

It is further stated that said purchase will provide Gulf with access to a substation built and owned by Gulf which is presently connected by tap line to the transmission line. Gulf expects to maintain and operate said transmission line in essentially the same manner and for essentially the same purposes as theretofore maintained and operated by Florida.

It is stated that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed acquisition. The fees and expenses to be paid or incurred, directly or indirectly, in connection with the proposed transaction are estimated to be $3,000.

Notice is further given that any interested person may, not later than August 29, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23149 Filed 8-10-77;8:45 am]

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[File No. 1-6007]

## MILTON ROY CO.

### Application To Withdraw From Listing and Registration

AUGUST 4, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of

1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the company has concluded that the costs of maintaining listings on both exchanges outweigh any benefits to be derived from dual listing.

The American Stock Exchange, Inc. has not objected to this application.

Any interested person may, on or before August 25, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23140 Filed 8-10-77;8:45 am]

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[Release No. 34-13822; File No. SR-MSRB-77-8]

## MUNICIPAL SECURITIES RULEMAKING BOARD

### Proposed Rule Changes; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 29, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The Municipal Securities Rulemaking Board (the "Board") is filing proposed rules A-14 and A-15 (hereinafter sometimes referred to as the "proposed rule changes") as set forth below.

Proposed rule A-14 levies an annual fee of $100 on municipal securities brokers and municipal securities dealers, with credit being allowed against such annual fee for any underwriting assessments paid pursuant to Board rule A-13. The annual fee would apply for each calendar year beginning with 1977 and would be payable to the Board by February 15 of the succeeding year. Proposed rule A-15 provides a procedure for firms and banks to notify the Board if they cease to be municipal securities brokers or municipal securities dealers.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

The purpose of proposed rule A-14 is to establish an equitable basis for all municipal securities brokers and municipal securities dealers to defray the costs and expenses of operating and administering the Board. The underwriting assessment provided in rule A-13 applies to roughly one-third of the organizations registered with the Board. However, the Board incurs ongoing direct expenses relating to each organization registered with it, particularly in the form of written communications concerning the Board's activities. The annual fee will offset these costs.

The proposed rule provides a credit against the annual fee for underwriting assessments paid to the Board. Firms seeking credit would be required to certify to the Board that underwriting assessments have been paid on their behalf in the relevant calendar year totaling at least $100 or a lesser specified amount.

Proposed rule A-15 is intended to provide a procedure for firms and banks to notify the Board if they cease to be municipal securities brokers or municipal securities dealers. The proposed rule change will result in administrative savings to the Board as well as providing a clear record of the status of the firms and banks that are no longer municipal securities brokers or municipal securities dealers. However, before a firm or bank again acts as a municipal securities broker or municipal securities dealer, it would be required to notify the Board and pay the initial fee prescribed in Board rule A-12.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted the proposed rule changes pursuant to sections 15B(b)(2)(I) and 15B(b)(2)(J) of the Securities Exchange Act of 1934, as amended (the "Act"). Section 15B(b)(2)(J) of the Act authorizes and directs the Board to adopt rules providing for the assessment of municipal securities brokers and municipal securities dealers to defray the costs and expenses of operating and administering the Board. Section 15B(b)(2)(I) authorizes and directs the Board to adopt rules providing for the operation and administration of the Board.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

Comments were not solicited or received on the proposed rule changes.

BURDEN ON COMPETITION

In the opinion of the Board, the proposed rule changes do not constitute a burden on competition, but rather provide for a more equitable basis for defraying the expenses of the Board's operation.

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

AUGUST 3, 1977.

TEXT OF PROPOSED RULE CHANGES

Rule A-14. *Annual fee.*—(a) *Annual fee.* In addition to the fee prescribed by rule A-12 of the Board, each municipal securities broker and municipal securities dealer shall pay an annual fee to the Board of $100, with respect to each calendar year commencing with the calendar year 1977. Such fee must be rereceived at the office of the Board in Washington, D.C. no later than February 15 in the year following the year with respect to which payment is made, and must be accompanied by a written statement setting forth the name, address and Commission registration number of the municipal securities broker or municipal securities dealer on whose behalf the fee is paid.

(b) *Credit for Underwriting Assessments.* A municipal securities broker or municipal securities dealer may credit against the fee otherwise payable for a calendar year pursuant to paragraph (a) of this rule, the aggregate amount of assessments paid during such calendar year on behalf of such mnuicipal securities broker or municipal securities dealer pursuant to Board rule A-13: *Provided*, That a written statement is furnished to the Board by such municipal securities broker or municipal securities dealer certifying that assessments required by rule A-13 totalling at least $100 or a lesser specified amount were paid to the Board on behalf of such

municipal securities broker or municipal securities dealer during such calendar year.

Rule A–15. *Notification to Board of change of status.*—(a) *Procedure for notifying board.* A person that ceases to be a municipal securities broker or municipal securities dealer may notify the Board of such person's change of status by filing with the Board at its office in Washington, D.C. a written statement setting forth such person's name, address and Commission registration number and the fact that such person is not a municipal securities broker or municipal securities dealer.

(b) *Obligation to pay fees.* A person that files notification with the Board pursuant to paragraph (a) of this rule shall be obligated to pay the fees assessed pursuant to Board rule A–12 or Board rules A–13 and A–14 for the calendar year during which such notification is filed: *Provided,* That any person that files such notice with the Board during the calendar year 1977 and does not act as a municipal securities broker or municipal securities dealer during such year shall not be subject to the fees prescribed in paragraph (a) of Board rule A–14 for such year.

(c) *Notification of further change of status.* Prior to acting as a municipal securities broker or municipal securities dealer, a person that has filed notification with the Board pursuant to paragraph (a) of this rule shall notify the Board that such person is a municipal securities broker or municipal securities dealer by following the procedure set forth in Board rule A–12.

[FR Doc.77-23146 Filed 8-10-77;8:45 am]

## PACIFIC STOCK EXCHANGE INC.

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 4, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 threunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

General Exploration Company; Common Stock, $1.00 par value; File No. 7–4968.

Upon receipt of a request, on or before August 20, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23189 Filed 8-10-77;8:45 am]

## PHILADELPHIA STOCK EXCHANGE, INC.

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 4, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Smith International, Inc.; Common Stock, no par value; File No. 7–4967.

Upon receipt of a request, on or before August 20, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23190 Filed – –77;8:45 am]

[release no. 34–13827; file no. SR-PHLX 77–8]

## PHILADELPHIA STOCK EXCHANGE, INC.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Public Law No. 94–29, 16 (June 4, 1975), notice is hereby given that on July 8, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

PHLX's STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc. ("PHLX") pursuant to Rule 19b–4 of the Securities Exchange Act of 1934 ("the Act") hereby proposes to amend Rule 1025 relating to the supervision of option accounts. The text of the proposed amendment is as follows: (italics indicate new language and deleted language is indicated by brackets).

SUPERVISION OF ACCOUNTS

Rule 1025. In addition to the requirements of Rule 747, every member organization shall provide for the diligent supervision [by a general partner or officer of the member organization who is a Registered Options Principal] of all of its customer accounts, and all orders in such accounts, to the extent such accounts and orders relate to options contracts, *by a general partner (in the case of a partnership) or officer (in the case of a corporation) of the member organization who is a Registered Options Principal and who has been specifically identified to the Exchange as the member organization's Senior Registered Options Principal.*

* * * Commentary

.01 The Senior Registered Options Principal in meeting his responsibility for supervision of customer accounts and orders, may delegate to qualified employees *including other Registered Options Principals,* responsibility and authority for supervision and control of each branch office handling transactions in option contracts, provided that [the] *such Senior* Registered Options Principal shall have overall authority and responsibility for establishing appropriate procedures of supervision and control over such employes.

*.02 In meeting their supervisory responsibilities every member organization shall establish, maintain, and enforce written procedures governing the conduct of options accounts.*

PHLX's STATEMENT OF BASIS AND PURPOSE

Rule 1025 expands the requirements for diligent supervision of all customer accounts under PHLX Rule 747 by requiring supervision of a member organization's option activity by a Registered Options Principal ("ROP") who is a general partner or officer of the member organization.

Although Rule 1025 does not explicitly mandate that member organizations designate one such ROP to be in charge of overall supervision of customer option accounts, the PHLX has interpreted this rule to include such a requirement (Circular No. 129, June 12, 1975). As interest in options trading has grown, many member firms which conduct a public business have had more than one individual qualify as an ROP. While such multiple registration has had the positive effect of qualifying a large number of people who are capable of functioning in a supervisory capacity, the PHLX believes that the designation of one Senior ROP is necessary to eliminate

the blurring of supervisory authority within a member firm. Such a requirement would be not only consistent with the PHLX's policy since the inception of its options program but would permit the recording of this policy in Exchange rules.

In addition, pursuant to Rule 1025, the Exchange has recommended that member organizations establish written supervisory procedures concerning its options business with the public. (Circular No. 129, June 12, 1975)

Accordingly, the PHLX proposes to amend Rule 1025 to designate a Senior ROP and to establish written supervisory procedures detailing the methods used to supervise customer options accounts.

The basis for the proposed rule change is found in Section 6(b)(5) of the Securities Exchange Act of 1934 ("the 1934 Act") as amended, which provides, in pertinent part, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and to protect investors and the public interest.

Comments were neither solicited nor received.

The PHLX has determined that the proposed amendment will not impose any burden on competition.

On or before September 15, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 12, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

AUGUST 4, 1977.

[FR Doc.77-23145 Filed 8-10-77;8:45 am]

## PHILADELPHIA STOCK EXCHANGE, INC.

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 4, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Book-of-the Month Club, Inc.; Capital Stock, $1.25 par value; File No. 7-4966.

Upon receipt of a request, on or before August 20, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23141 Filed 8-10-77;8:45 am]

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[Rel. No. 9880; 812-3893]

## VARIABLE ANNUITY LIFE INSURANCE CO. SEPARATE ACCOUNT ONE OF THE VARIABLE ANNUITY LIFE INSURANCE CO.

### Application for an Order of Exemption From Provisions

AUGUST 3, 1977.

Notice is hereby given that The Variable Annuity Life Insurance Company ("VALIC"), a Texas stock life insurance company, and Separate Account One of VALIC ("Separate Account One"), 2777 Allen Parkway, Houston, Texas 77019, a separate account of VALIC registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company (hereinafter collectively referred to as "Applicants"), filed an application on December 29, 1975, and an amendment thereto on July 1, 1977, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Separate Account One was established by the Board of Directors of VALIC on September 25, 1968 in accordance with the Texas Insurance Code. Among the variable annuity contracts offered by Separate Account One and VALIC is a Group Unit Purchase Variable Annuity Contract ("Contract[s]") which is designed to fund benefits provided by annuity purchase plans adopted by public school systems and certain tax-exempt organizations for their employees and qualifying for tax-deferred treatment under Section 403(b) of the Internal Revenue Code of 1954, as amended. VALIC serves as investment adviser to and principal underwriter for Separate Account One.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new § 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted § 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such

contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of § 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

SECTIONS 27(c) (1), 22(e) AND 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with § 51.358 as it pertains to (i) redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order and (ii) redemption values under Contracts issued prior thereto but attributable to payments made subsequent to the date of such order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) The limited restriction on redemption would be voluntarily assumed by participate, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restrictions on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Applicants will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 29, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of factor law proposed to be controverted, or he may request that he be notified if the Commission should munication should be addressed: Secretary, Securities, and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated unorder a hearing thereon. Any such comder the Act, an order disposing of the application will be issued as of course following August 29, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc.77-23142 Filed 8-10-77;8:45 am]

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[File No. 500-1]

## WYLY CORP.

### Suspension of Trading

AUGUST 3, 1977.

It appearing to the Securities and Exchnage Commission that the summary suspension of trading in the securities of Wyly Corporation being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:30 p.m. (e.d.t.) on August 3, 1977 through August 12, 1977.

By the Commission.

SHIRLEY E. HOLLIS,
*Assistant Secretary.*

[FR Doc. 77-23143 Filed 8-10-77; 8:45 am]

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# SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02-02-0333]

## BBS EQUITIES LTD

### Amendment to Notice of Application for a License to Operate as a Small Business Investment Company

On August 2, 1977, a Notice was published in the FEDERAL REGISTER (42 FR 39172) stating that BBS Equities Ltd., Gateway One, Suite 2400, Newark, N.J. 07102, had filed an application with the Small Business Administration (SBA), pursuant to section 107.102 of the Rules and Regulations governing small business investment companies (13 CFR 107.102 (1977)) to operate as a small business investment company (SBIC).

Bevill, Bresler and Schulman Investment Co., Gateway One, Suite 2400, Newark, N.J. 07102, a holding company, will own 95.06 percent of the initial 526 shares of common stock to be issued. The Notice stated that this holding company would be owned by six investors and we listed their ownership. The Applicant has advised SBA of the following change in the ownership of the holding company.

Bevill, Bresler and Schulman Investment Co. will be owned by the following individuals:

Robert L. Bevill, 22 Kings Hill Ct., Summit, N.J. 07901—50%.

Andrew D. Ledbetter, 201 Vanderpool, Houston, Tex. 77063—50%.

Matters involved in SBA's consideration of the application include the general reputation and character of the management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than August 26, 1977, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 5, 1977.

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc.77-23227 Filed 8-10-77;8:45 am]

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[Declaration of Disaster Loan Area No. 1354]

## CALIFORNIA

### Declaration of Disaster Loan Area

The City of Santa Barbara and the County of Santa Barbara and adjacent counties within the State of California, constitute a disaster area because of damage resulting from a forest fire which occurred on July 26, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 3, 1977, and for economic injury until the close of business on May 2, 1978, at:

Small Business Administration, District Office, 211 Main Street—4th Floor, San Francisco, California 94105.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: August 3, 1977.

A. VERNON WEAVER,
*Administrator.*

[FR Doc.77-23135 Filed 8-10-77;8:45 am]

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[License No. 04/04-0117]

## COASTAL CAPITAL CO.

### Issuance of Small Business Investment Company License

On March 16, 1977, a Notice was published in the FEDERAL REGISTER (42 FR 14796) stating that an application had been filed by Coastal Capital Company, 100 St. Joseph Street—Suite 204, Mobile, Alabama 36601, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)) for a License as a small business investment company (SBIC).

Interested parties were given until the close of business March 28, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issue License No. 04/04-0117 to Coastal Capital Company to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 3, 1977.

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc.77-23134 Filed 8-10-77;8:45 am]

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[Declaration of Disaster Loan Area No. 1353]

## FLORIDA

### Declaration of Disaster Loan Area

The listing below of the 35 counties and adjacent counties within the State of Florida constitute a disaster area as a result of drought which caused severe crop losses during the 1976 crop year and continuing into the 1977 crop year. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 3, 1977, and for economic injury until the close of business on May 4, 1978, at:

Small Business Administration, District Office, 400 West Bay Street, Jacksonville, Fla. 32202.

or other locally announced locations.

| | |
|---|---|
| Alachua | Lafayette |
| Baker | Leon |
| Bay | Levy |
| Bradford | Liberty |
| Calhoun | Madison |
| Citrus | Marion |
| Columbia | Okaloosa |
| Dixie | Putnam |
| Escambia | St. Johns |
| Flagler | Santa Rosa |
| Franklin | Sumter |
| Gadsden | Suwannee |
| Gilchrist | Taylor |
| Gulf | Union |
| Hamilton | Wakulla |
| Holmes | Walton |
| Jackson | Washington |
| Jefferson | |

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 4, 1977.

A. VERNON WEAVER,
*Administrator.*

[FR Doc.77-23225 Filed 8-10-77;8:45 am]

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[License No. 03/03-0124]

## LIFE CARE CAPITAL CORP.

### Notice of Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to section 107.102 of the Regulations (13 CFR 107.102 (1977)) under the name of Life Care Capital Corp., Ferry and Iron Hill Roads, Doylestown, Pa. 18901, for a license to operate in the Commonwealth of Pennsylvania as an SBIC, under the provisions of the Small Business Investment Act of 1958 (Act), as amended, (15 U.S.C. 661 et seq.).

The Proposed officers and directors and major stockholders are as follows:

Frank E. Elliott, 115 East State St., Doylestown, Pa. 18901; President, Director—0.

Hayes L. Ramsey, 22 Orchard Avenue, Allentown, Pa. 18104; Secretary, Treasurer, Director—0.

Joseph Marmaluk, 3922 Bradford Road, Huntington Valley, Pa. 19006; Director—0.

E. Douglas Chaffin, 3703 Westminister Lane, Ocean City, N.J. 08226; Director—0.

Arsen Kashkashian, 55 Brainwood Drive, Holland, Pa. 18966; Director—0.

Life Care Society of America, Inc.—100 percent.

Mr. Frank E. Elliott, President of the Applicant, Mrs. Elliott and their four children own 100 percent of the issued and outstanding stock of Life Care Society of America, Inc. (LCSA). LCSA, Inc., endeavors to develop communities which have all the necessary facilities available for a balanced mode of living for retired individuals.

The applicant will begin operations with a capitalization of $300,000, which will be a source of equity capital and long-term loans for qualified small business concerns in a wide range of industries. In addition to financial assistance, the applicant will provide consulting services to its clients.

The applicant will conduct its operations principally in the Commonwealth of Pennsylvania and in other areas wherever the need may arise.

Matters involved in SBA's consideration of the applicant include the general reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any interested person may on or before August 22, 1977, submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, the Small Business Investment Companies.)

Dated: August 5, 1977.

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc.77-23228 Filed 8-10-77;8:45 am]

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[Declaration of Disaster Loan Area No. 1352]

### OHIO

#### Declaration of Disaster Loan Area

Cuyahoga County and adjacent counties within the State of Ohio constitute a disaster area because of physical damage resulting from storms, sudden heavy rains and flooding which occurred on July 12, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 3, 1977, and for economic injury until the close of business on May 2, 1978, at:

Small Business Administration, District Office, AJC Federal Building—Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: August 2, 1977.

A. VERNON WEAVER,
*Administrator.*

[FR Doc.77-23136 Filed 8-10-77;8:45 am]

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[Declaration of Disaster Loan Area No. 1349, Amdt. No. 1]

### PENNSYLVANIA

The above numbered Declaration (See 42 F.R. 39173), is amended in accordance with the President's declaration of July 21, 1977, to include Blair County, Pennsylvania. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above named county and adjacent counties within the State, and is extending the filing date for physical damage until the close of business on September 27, 1977, and for economic injury until the close of business on May 1, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 5, 1977.

A. VERNON WEAVER,
*Administrator.*

[FR Doc.77-23226 Filed 8-10-77;8:45 am]

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## DEPARTMENT OF STATE

[Public Notice CM-7/98]

### SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

#### Notice of Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea will conduct open meetings at 8 a.m. on Wednesday, September 7, 1977, and at 9:30 a.m. on Thursday, September 8, 1977, in Rooms 8236-38 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of these meetings will be to discuss the results of the 17th Session of the IMCO Subcommittee on Ship Design and Equipment, July 25-29, 1977; to prepare for the Intersessional meetings on general requirements and machinery and electrical installments for mobile offshore drilling units to be held during the week of November 28-December 2, 1977; and to prepare for the 18th Session of the Subcommittee tentatively scheduled for February 27-March 3, 1978. The work on mobile offshore drilling units will be conducted at Wednesday's meeting, while the remaining topics, including offshore supply vessels, nuclear ships, training and research ships, draft requirements for segregated ballast tankers below 150 meters in length, and tankers and/or other perimeters will be addressed at Thursday's meeting.

Requests for further information on the meeting should be directed to Captain J. W. Kime, U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590. He may be reached by telephone on area code 202-426-2167.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, Jr.,
*Acting Director,*
*Office of Maritime Affairs.*

AUGUST 4, 1977.

[FR Doc.77-23210 Filed 8-10-77;8:45 am]

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[Public Notice CM-7/97]

### STUDY GROUP 5 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

#### Notice of Meeting

The Department of State announces that Study Group 5 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 9, 1977, from 9:30 a.m. to 2:30 p.m., in the Aspen Room, Office of Telecommunications, Department of Commerce, 1325 G Street NW., Washington, D.C.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeeting will be a final review of U.S. preparations for the international meeting of Study Group 5 in September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: August 4, 1977.

JOHN J. O'NEILL, Jr.,
*Director, Office of International Communications Policy.*

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### Agency for International Development

[Redelegation of Authority No. 99.1.89]

### STANLEY R. NEVIN

#### Delegation of Contracting Officer Authority

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to Mr. Stanley R. Nevin the authority to sign the following instruments, up to an amount of $500,000 (or local currency equivalent) per transaction:

(1) U.S. Government contracts (including contracts with individuals for services of the individual alone);

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof;

(3) Inter-agency service agreements (IASAs) between A.I.D. and other U.S. Government agencies; and

(4) Modifications to the instruments specified above.

The authority delegated herein is to be exercised in accordance with A.I.D. regulations, procedures, and policies in effect at the time the authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

This redelegation of authority shall be effective on the date of signature.

Dated: July 28, 1977.

HUGH L. DWELLEY,
*Director, Office of Contract Management.*

[FR Doc.77-23126 Filed 8-10-77;8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 77 148]

### EQUIPMENT, CONSTRUCTION, AND MATERIALS

#### Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from May 10, 1977 to

June 22, 1977 (List No. 11–77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (46 CFR 1.46(b)). The sepecifications perscribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

The Texas Water Crafters, Post Office Drawer 539, Wichita Falls, Tex. 76307, Approval No. 160.049–69–1 expired and was terminated effective May 8, 1977.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

The Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, Approval No. 160.050–83–0 expired and was terminated effective May 10, 1977.

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD FOR MERCHANT VESSELS

The Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, Approval No. 160.055–78–0 expired and was terminated effective June 5, 1977.

MARINE BUOYANT DEVICE

The Texas Water Crafters, 912 N. Beverly Drive, Wichita Falls, Tex. 76300, Approval Nos. 160.064–33–1, 160.064–44–0, 160.064–64–1, 160.064–65–1 and 160.064–66–1 expired and were terminated effective June 22, 1977.

The Rand Manufacturing Corp., 14615 NE., 91st Street, Redmond, Wash. 98052, no longer manufacturers certain marine buoyant devices and Approval Nos. 160.-064967–0, 160.064–968–0, 160.064–969–0, 160.064–970–0, 160.064–971–0, 160.064–972–0 and 160.064–1090–0 were therefore terminated effective June 20, 1977.

SAFETY VALVES (POWER BOILERS)

The Teledyne Farris Engineering, Palisades Park, N.J. 07650, no longer manufacturers certain safety values and Approval No. 162.001–72–1 was therefore terminated effective June 10, 1977.

Dated: August 3, 1976.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.*

[FR Doc.77-23241 Filed 8-10-77;8:45 am]

## Federal Railroad Administration

[FRA Waiver Petition No. RST–77–3]

## ILLINOIS CENTRAL GULF RAILROAD

### Petition for Waiver of Track Safety Standards

As required by 45 U.S.C. 431(c) notice is hereby given that the Illinois Central Gulf Railroad (ICG) has petitioned the Federal Railroad Administration (FRA) for a permanent waiver of compliance with certain provisions of the Track Safety Standards (49 CFR Part 213). The provisions for which the waiver is sought involve the requirements for the track structure contained in § 211.113 of the standards.

The ICG seeks this waiver for approximately 296 miles of track. The trackage involved consists of segments of the petitioner's main line between Chicago, Illinois and New Orleans, Louisiana, as well as segments of the trackage between Edgewood, Illinois and Fulton, Kentucky, which is known as the Bluford District.

The ICG states that it installed continuous welded rail on these lines in recent years. The welded rail installed on these lines has been experiencing defective weld failures caused by incomplete fusion of the metal at the time that the rail was welded in the petitioner's facility at Centralia, Illinois. The ICG has repaired the non-fused welds by removing excess metal through grinding and by applying joint bars in accordance with § 213.121 of the standards.

The ICG now seeks a waiver of compliance with the speed limitations imposed by § 213.113 of the standards. That section requires that the railroad limit its operating speed to 50 miles per hour when moving trains over a rail containing a defective weld, which has weakened 20 percent or more of the rail head, once the joint bars have been applied to that rail in the prescribed manner. The ICG indicates that, if the waiver is granted, it will operate trains over these repaired welds at various speeds in excess of 50 miles per hour and in accordance with its present timetable speeds.

In support of the request for a waiver the ICG states that it has encountered no trouble in maintaining the repaired welds and that the repairs have held up under traffic. Furthermore, the repaired welds have not broken through the rail and nothing has been found in the condition of the rail, after the joint bars were applied, which would be detrimental to the safe operation of a train. The ICG urges the waiver be granted so as to avoid unreasonable impairment of ICG's train operations over these lines which include both freight trains and Amtrak passenger trains.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided however, if requested by any interested party prior to August 22, 1977. All communications regarding this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number RST–77–3) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before September 16, 1977 will be considered by the Federal Railroad Administration before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C., on August 8, 1977.

DONALD W. BENNETT,
*Chairman, Railroad Safety Board.*

[FR Doc.77-23181 Filed 8-10-77;8:45 am]

## MISSOURI PACIFIC RAILROAD ET AL.

### Petitions for Waiver of Railroad Radio Standards

As required by 45 U.S.C. 431(c), notice is hereby given that three railroads have submitted waiver petitions to the Federal Railroad Administration (FRA). Each petition requests that the railroad be granted a permanent waiver of compliance with certain safety standards contained in the Radio Standards and Procedures (49 CFR Part 220).

FRA issued initial provisions governing the use of radio communication in connection with railroad operations of January 27, 1977. These regulations require railroads to have certain carrier operating rules governing the use of radios to assure that radio communications are used in a manner which enhances the safety of railroad operations. The regulations became effective on August 1, 1977.

Each of the railroads, which are identified below, are seeking a waiver of compliance with specific provisions of these standards in order to continue conducting their operations in accord with their current practices. A brief description of the particular facts involved in each request, as well as the particular regulatory provision is identified below.

Interested persons are invited to participate in these proceedings by submitting written comments or views. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. However, FRA will provide an opportunity for oral comment if requested to do so by an interested person. Such requests must be in writing and must be submitted to FRA before August 22, 1977.

All communications concerning these proceedings should identify the appropriate Docket Number (eg FRA Waiver Petition Docket Number RSOR–77–8) and shall be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW, Washington, D.C. 20590. Communicaitons received before September 16, 1977 will be considered by FRA before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available for examination, both before and after the closing date for comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FRA Waiver Petition Docket No. RSOR–77–7

The Missouri Pacific Railroad (Mopac) seeks a limited waiver of compliance with the provisions of § 220.61 (b). This section prescribes the procedures which the dispatcher or operator and the crew of a train must adhere to when a train order is being transmitted.

The Mopac seeks the waiver of compliance with these procedures for several types of radio communications that are used during train operations. The types of radio communication identified by the Mopac include verbal permission to proceed through an interlocking; verbal advice that there are no opposing trains in the block; verbal advice to trains operating under the authority for train movement conveyed by a signal system. These types of radio communication are utilized in connection with railroad's own operating rule provisions contained in rules 350, 400, and 450 of the Mopac Book of Operating Rules.

The Mopac indicates that it has conducted train operations safely over a period of years by utilizing these types of verbal communications. To modify the method of providing these types of communications to conform to the FRA procedures would, in Mopac's judgment, cause delays in train operations and increase the costs of those operations. The Mopac, therefore, seeks this waiver in order to continue to use its present method of operations.

FRA Waiver Petition Docket No. RSOR–77–8

The Burlington Northern Railroad (BN) seeks a limited waiver of compliance with provisions of § 220.61(b). This section prescribes the procedures which the dispatcher or operator and the crew of a train must adhere to when a train order is being transmitted.

The BN seeks the waiver of compliance with these procedures for a particular type of radio communication that is used during train operations. The type of radio communication identified by the BN involves verbal advice to trains that are being operated under the authority for train movement conveyed by a signal system. This type of verbal advice is utilized in connection with the railroad's own operating rules provision contained in rule 251 of the BN book of Operating Rules.

The BN states that this verbal advice provision is used to permit a dispatcher to instruct a slow moving train to allow a faster train to pass when that faster train overtakes the slow moving train. The dispatcher is authorized to issue such instructions only when both trains are moving with the current of traffic in territory where the authority for train movement is conveyed by a signal system.

The BN states that it has conducted train operations safely over a period of years by utilizing this procedure. To modify this method of operation to conform to the FRA procedures would, in BN's judgment, cause delays in train operations and increase the costs of those operations. The BN, therefore, seeks this waiver in order to continue to use its present method of operations.

FRA Waiver Petition Docket No. RSOR–77–15

The Chicago, Rock Island and Pacific Railroad (Rock Island) seeks a waiver of compliance with the provisions of § 220.61(b). This section prescribes the procedures which the dispatcher or operator and the crew of a train must adhere to when a train order is being transmitted.

The Rock Island seeks the waiver of compliance for those subdivisions on which the Rock Island conducts its train operations under a unique set of provisions known as the "Rules and Instructions for the Movement of Trains and Engines by Voice Control." The Rock Island instituted this method of operation in February 1976 and currently utilizes it on two subdivisions between St. Louis and Kansas City in the State of Missouri.

In utilizing this method of operation the Rock Island transmits movement instructions to the engineer of a given train by radio. Upon receipt of these instructions the engineer repeats them to the operator or dispatcher and then proceeds to act upon them as is appropriate with the information communicated. The Rock Island does not have provisions in its rules and instructions that require the engineer to copy these movement instructions. Furthermore, the Rock Island does not require that the conductor of the train must have a copy of the movement instruction prior to the engineer acting to comply with the instructions. The FRA procedures require both that these instructions be copied and that the conductor be furnished a copy prior to compliance activity.

The Rock Island seeks the waiver in order to continue its present method of operations. The Rock Island states that this method has proven to be both safe and effective since it was inaugurated. The Rock Island urges that this operation is similar in many respects to the procedures used for air traffic controller instructions and railroad operations conducted under sophisticated types of signal systems.

The Rock Island notes that nearly all on track equipment and all engines and cabooses currently operating on the affected subdivisions are equipped with good radio equipment. Additionally the Rock Island indicates that it has extremely good quality radio communications on the two subdivisions that are operated under the present rules and instructions.

(Sec. 202, Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by Sec. 5(b) of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94-348, 90 Stat. 817, July 8, 1976; § 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n)).

Issued in Washington, D.C., on August 8, 1977.

Donald W. Bennett,
*Chairman Railroad Safety Board.*

[FR Doc.77-23185 Filed 8-10-77;8:45 am]

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[FRA Waiver Petition No. HS-77-11]

## MOUNT HOOD RAILWAY CO.

### Petition for Exemption From the Hours of Service Act

The Mount Hood Railway Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a (e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–77–11, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before September 16, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street SW, Washington, D.C. 20950.

Issued in Washington, D.C., on August 8, 1977.

Donald W. Bennett,
*Chairman, Railroad Safety Board.*

[FR Doc.77-23182 Filed 8-10-77;8:45 am]

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[FRA Waiver Petition No. HS-77-12]

## VIRGINIA & MARYLAND RAILROAD CO.

### Petition for Exemption From the Hours of Service Act

The Virginia & Maryland Railroad Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Ad-

ministration, Attention: FRA Waiver Petition No. HS–77–12, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before September 16, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20950.

Issued in Washington, D.C., on August 8, 1977.

DONALD W. BENNETT,
*Chairman,*
*Railroad Safety Board.*

[FR Doc.77–23183 Filed 8–10–77;8:45 am]

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[FRA Waiver Petition No. HS–77–10]

## YAKIMA VALLEY TRANSPORTATION CO.

### Petition for Exemption From the Hours of Service Act

The Yakima Valley Transportation Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–77–10, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before September 16, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20950.

Issued in Washington, D.C., on August 8, 1977.

DONALD W. BENNETT,
*Chairman,*
*Railroad Safety Board.*

[FR Doc.71–23184 Filed 8–10–77;8:45 am]

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# VETERANS ADMINISTRATION

## STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

### Notice of Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on September 8, 1977, at 9 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A–220, 110 9th Avenue, South, Nashville, Tenn., conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Falls Business College, 620 Gallatin Road, South, Madison, Tenn., should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: August 2, 1977.

R. S. BIELAK,
*Director, VA Regional Office, 110 9the Avenue, South Nashville, Tenn.*

[FR Doc.77–23211 Filed 8–10–77;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).

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1

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., August 17, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Dockets 74 and 332–C, *Sioux.*
Docket 326–K, *Western Shoshone* (three items).

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006; Tel. 202–653–6184.

[S–1076–77 Filed 8–8–77;3:47 pm]

2

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

TIME: 9 a.m. to 5 and 9–3 p.m., respectively.

DATE: September 26 and 27, 1977.

PLACE: Hyatt Regency Chicago, Ill.

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of activities since March 20 and 21, 1977, meeting; review of program activity; organization of advisory committee; relationship with the States.

CONTACT PERSON FOR MORE INFORMATION:

Alphonse F. Trezza, Executive Director.

ALPHONSE F. TREZZA.

AUGUST 3, 1977.

[S–1077–77 Filed 8–8–77;3:47 am]

3

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, August 30, 1977, 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 3 are open to the public. Status is not applicable to matters 4 and 5.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held August 9, 1977, and other Board meetings, if any.

2. Recommended clearances: Medico Industries, Inc., fiscal years ended October 31, 1971, 1972, and 1973

3. Recommended clearances without assignment (list 1881):

A. Mission Research Corp., fiscal year ended June 30, 1976.
B. Microwave Products, Inc., fiscal year ended June 30, 1976.
C. P.B.H., Inc., fiscal year ended June 30, 1976.
D. Evans Products Co., fiscal year ended December 31, 1975.
D–1. Minneapolis Electric Steel Castings Co., fiscal year ending December 31, 1975.
E. Conco, Inc., fiscal year ending December 31, 1975.

4. Approval of agenda for meeting to be held September 13, 1977.

5. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446 (202–254–8277).

Dated: August 8, 1977.

GOODWIN CHASE,
*Chairman.*

[S–1078–77 Filed 8–8–77;3:47 pm]

4

AUGUST 8, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, August 15, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED: Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda: 1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, Telephone 202–275–7535.

[S–1079–77 Filed 8–8–77;9:02 am]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

At its meeting held at 10:30 a.m. on Monday, August 8, 1977, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of Chairman George A. LeMaistre, seconded by Mr. Robert Bloom, acting in the place and stead of the Comptroller of the Currency, that Corporation business required its addition of a recommendation regarding the liquidation of assets acquired by the Corporation in its capacity as liquidator of Franklin National Bank, New York, N.Y. (Case No. 43,150–L), to the agenda for consideration at that meeting and that no earlier notice of a change in the subject matter of the meeting was possible.

The Board's deliberations with respect to the matter were closed to public observation pursuant to the provisions of subsections (c)(9)(B) and (d)(1) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B) and (d)(1)) on the basis of the Board's determination that the public interest did not require consideration of the matter in a meeting open to public observation.

Dated: August 8, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
*Executive Secretary.*

[S–1080–77 Filed 8–9–77;9:02 am]

6

FEDERAL RESERVE SYSTEM.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to Federal Register August 8, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 12 noon, Monday, August 15, 1977.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting: 1. Consideration of proposed modification of certain personnel practices.

Previously announced closed items:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing and Urban Affairs regarding S. 684, a bill entitled the "Federal Bank Commission Act of 1977" and S. 711, a bill entitled the "Federal Bank Examination Council Act."

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202–452–3204).

Dated: August 8, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[S–1081–77 Filed 8–9–77;9:27 am]

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7

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 39737, August 5, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: August 10, 1977, 10 a.m.

The following items will be considered by the Commission on August 10, 1977, following the open meeting scheduled for 10 a.m.

Consideration of amicus curiae matter.

Institution of injunctive actions.

Chairman Williams and Commissioners Evans and Pollack voted to hold the aforesaid meeting in closed session and determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

AUGUST 9, 1977.

[S–1082–77 Filed 8–9–77;10:42 am]

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8

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 39737, August 5, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: August 10, 1977, 10 a.m.

CHANGES IN THE MEETING: Deletion of item on agenda.

Item one on the open meeting agenda scheduled for August 10, 1977, at 10 a.m., relating to the consideration of proposals submitted by CBOE, Amex, PHLX, MSE, and PSE to amend their respective rules setting forth option exercise price intervals, is deleted.

Chairman Williams and Commissioners Evans and Pollack voted to approve the above change and that no earlier notice thereof was possible.

AUGUST 9, 1977.

[S–1083–77 Filed 8–9–77;10:42 am]

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9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 15, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, August 18, 1977, at 10 a.m. A closed meeting will be held on Thursday, August 18, 1977, following the open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)A, and (10) and 17 CFR 200.402(a)(4), (8), (9)(i), and (10).

Chairman Williams and Commissioners Evans and Pollack voted to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, August 18, 1977, will be:

1. Consideration of the issuance of an order of hearings and cover release setting forth issues to be explored and procedures to be followed at public hearings on the reexamination of rules relating to shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally.

2. Consideration of a Freedom of Information Act request from Herbert A. Hoffman, Esq., for access to certain files containing general geological information relating to UV Industries, Inc.'s Continental Mine.

3. Consideration of a Freedom of Information Act request from Mr. Ira Zimmerman regarding access to staff documents concerning the trading of puts.

The subject matter of the closed meeting scheduled for Thursday, August 18, 1977, will be:

Formal orders of investigation.
Referral of investigative files to Federal, State, or self-regulatory authorities.
Dismissal of injunctive action.
Settlement of administrative proceedings.
Institution of injunctive actions.
Settlement of injunctive actions.
Regulatory matters arising from or bearing enforcement implications.
Review of request for extension of time.
Application to stay Commission order.
Freedom of Information Act requests.

FOR FURTHER INFORMATION CONTACT:

Angela Desmond at 202–755–1173 or Edward A. Scallet at 202–755–1234.

AUGUST 9, 1977.

[S–1084–77 Filed 8–9–77;10:42 am]

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10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 1:30 p.m., Thursday, August 11, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Briefing on Draft Administration Bill for Nuclear Plant Licensing Reform (Exemption 9). (Replaces "Review of FY 1979 Budget" meeting which is postponed to the week of August 15).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee 202–634–1410.

Dated: August 8, 1977.

WALTER MAGEE,
*Office of the Secretary.*

[S–1092–77 Filed 8–10–77;9:48 am]

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11

NUCLEAR REGULATORY COMMISSION.

DATE: Tuesday, August 16; Wednesday, August 17 and Thursday, August 18, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Tuesday, August 16: 9 a.m. Review of FY 1979 Budget (Open). 1:30 p.m. Review of FY 1979 Budget (continued) (Open).

Wednesday, August 17: 9 a.m. Review of FY 1979 Budget (continued) (Open). (Open or Closed, to be determined), or Recall of Selected Officers (Budget Review) (Open or Closed, to be determined).

Thursday, August 18: 9 a.m. Recall of Selected Officers (Budget Review). (Open or Closed to be determined).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee 202–634–1410.

Dated: August 9, 1977.

WALTER MAGEE, *Chief,*
*Operations Branch,*
*Office of the Secretary.*

[S–1093–77 Filed 8–10–77;9:48]

federal register

THURSDAY, AUGUST 11, 1977

PART II

# DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

■

# ENDANGERED AND THREATENED WILDLIFE AND PLANTS

## American Ginseng; Review of Status

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### [ 50 CFR Part 17 ]

### ENDANGERED AND THREATENED WILDLIFE AND PLANTS

### American Ginseng; Review of Status

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Review of the status of American ginseng.

SUMMARY: Notice is hereby given that the Department of the Interior has evidence on hand to warrant a review of American ginseng (*Panax quinquefolius*) to determine whether the plant should be proposed for listing as an Endangered or Threatened species.

DATES: Information regarding the status of this species should be submitted on or before October 11, 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, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, Phone 202–343–4646.

SUPPLEMENTARY INFORMATION: American ginseng is listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (February 22, 1977, FEDERAL REGISTER, 42 FR 10461–10488). The Convention was established to protect wild animals and plants from overexploitation by international trade. The export of plants listed on Appendix II requires documentation issued by the U.S. Fish and Wildlife Service. Export of cultivated American ginseng can be conducted under a Certificate of Exception that can be obtained from the Federal Wildlife Permit Office (cf. 42 FR 10461). Permits for the export of wild American ginseng are also obtained from the Federal Wildlife Permit Office; however, the issuance of such permits is subject to the approval of the Endangered Species Scientific Authority.

American ginseng is included in numerous State lists of endangered, threatened and rare plants. In addition, the species has been included in the forthcoming revision by the Smithsonian Institution, "Endangered and Threatened Plants of the United States."

Many States have laws designed to conserve wild plants and to protect plant resources on private land. In a few cases statutes have been passed (such as the Michigan Endangered Species Act of 1974) that pertain specifically to the conservation of American ginseng. Although export of American ginseng can be controlled pursuant to the Convention, that international treaty does not contain specific provisions for the conservation of plants in the wild. Most States do not have such provisions either; nor do State statutes provide uniform controls for the harvest of wild ginseng. Consequently, the Service believes that American ginseng may benefit from the provisions of the Endangered Species Act of 1973. The provisions of the Act for conservation of listed species in the wild and the regulation of interstate trade for such species may be necessary to insure the continued survival of the American ginseng, particularly in States where it has been severely depleted because of overcollecting and habitat modification. If American ginseng is listed as an Endangered or Threatened species, the plant will be subject to the regulations published in the June 24, 1977, FEDERAL REGISTER (42 FR 32373–32381).

The Service has information that American ginseng has been observed in the wild in at least the following States: Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missour, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. In addition, American ginseng has been observed in the wild in Ontario, Quebec, and Manitoba, Canada.

The Service is seeking the views of the Governors of all the above States and the Government of Canada concerning the biological and commercial status of American ginseng. Other interested parties are hereby invited to submit any factual information, including publications and written reports, which are germane to this status review.

Data received will be used by the Department of the Interior to help ascertain whether American ginseng should be listed as an Endangered or Threatened species, and by the Endangered Species Scientific Authority (which must approve all exports of American ginseng that have been obtained from the wild).

This notice of review was prepared by Mr. Roger E. McManus and Dr. Bruce MacBryde, Office of Endangered Species.

Dated: August 3, 1977.

LYNN A. GREENWALT,
*Director, Fish and Wildlife Service.*

[FR Doc.77-23039 Filed 8-10-77;8:45 am]

federal register

THURSDAY, AUGUST 11, 1977
PART III

# FEDERAL ENERGY ADMINISTRATION

■

# ENERGY CONSERVATION PROGRAM FOR APPLIANCES

## Proposed Test Procedures for Furnaces

## FEDERAL ENERGY ADMINISTRATION

[ 10 CFR Part 430 ]

### ENERGY CONSERVATION PROGRAM FOR APPLIANCES

### Proposed Test Procedures for Furnaces; Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Administration hereby proposes to amend its regulations in order to prescribe test procedures for furnaces under the Energy Policy and Conservation Act. The Act requires that standard methods for testing furnaces be prescribed as part of the energy conservation program for appliances. The intended effect of this proposal is to implement the Act's requirements for the solicitation of public comments before the test procedures are prescribed.

DATES: Comments by September 27, 1977, 4:30 p.m.; requests to speak by September 22, 1977, 4:30 p.m.; statements by September 27, 1977, 4:30 p.m.; hearing to be held on October 4, 1977, at 9:30 a.m.

ADDRESSES: Requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box NX, Washington, D.C. 20461.

Comments to: Executive Communications, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

HEARING HELD AT: Federal Energy Administration, Federal Building, Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Old Post Office Building, Room 307, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–4635.

Robert C. Gilette (Hearing Procedures), 2000 M Street NW., Room 222A, Washington, D.C. 20461, 202–566–5201.

Jim Merna (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Robert D. R. de Sugny (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 7146, Washington, D.C. 20461, 202–566–9750.

SUPPLEMENTARY INFORMATION:

#### A. Background

The Federal Energy Administration (FEA) proposes to amend Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for furnaces pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). The adoption of test procedures does not mean that actual testing must be conducted. The procedures merely establish standard methods for testing when testing is otherwise required by the Act itself or by regulations implementing other parts of the program. For example, the Federal Trade Commission (FTC) may require that all or part of the test procedure be conducted in exercising its appliance energy efficiency labelling authority regarding a particular appliance type.

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances," in Chapter II of Title 10 of the Code of Federal Regulations. That notice proposed a Subpart A to Part 430, containing general program provisions, and a Subpart C, containing proposed energy efficiency improvement targets. By notice issued July 22, 1976 (41 FR 31237, July 27, 1976), FEA proposed an amendment to proposed Part 430 to add a Subpart B which would contain the appliance test procedures required to be prescribed by section 323 of the Act. Subparts A and B were established by notice issued on May 24, 1977 (42 FR 27896, June 1, 1977). A notice was issued July 8, 1977 (42 FR 36648, July 15, 1977) withdrawing the original proposal of Subpart C and reproposing a new Subpart C containing proposed energy efficiency improvement targets for the products listed in 1–10 of section 322(a) of the Act. Proposed energy efficiency improvement targets for the products listed in 11–13 of section 322(a) of the Act will be issued at a later date.

The notice issued on May 24, 1977, included final test procedures for room air conditioners. By notice issued March 17, 1977 (42 FR 15423, March 22, 1977) FEA proposed test procedures for dishwashers. This notice also included certain program definitions which have not yet been finalized. Proposed test procedures for water heaters, television receivers, refrigerators and refrigerator-freezers, freezers and clothes dryers were issued on April 21, 1977 (42 FR 21576 et seq., April 27, 1977). Proposed test procedures for unvented home heating equipment were issued on May 4, 1977 (42 FR 23860, May 11, 1977), and proposed test procedures for automatic and semi-automatic clothes washers were issued on May 11, 1977 (42 FR 25329, May 17, 1977), including a determination that test procedures cannot be developed for any other class of clothes washers. Proposed test procedures for humidifiers and dehumidifiers were issued on May 25, 1977 (42 FR 27941, et seq. June 1, 1977). Proposed test procedures for central air conditioners were issued on June 7, 1977 (42 FR 30401, June 14, 1977), and were followed by proposed test procedures for conventional ranges, cooking tops and ovens, including microwave ovens, which were issued on June 9, 1977 (42 FR 30627, June 16, 1977). The latter notice included a determination to delay the publication of test procedures for any other class of the type "kitchen ranges and ovens." By this notice, FEA is proposing test procedures for furnaces.

Section 323(a)(2) of the Act requires FEA to direct the National Bureau of Standards (NBS) to develop, for specifically named types of covered products, test procedures for the determination of the estimated annual operating costs and at least one other useful measure of energy consumption which FEA determines is likely to assist consumers in making purchasing decisions. Pursuant to the Act, FEA directed NBS to develop test procedures for FEA's use in prescribing test procedures under the Act. As part of this undertaking, NBS evaluated existing test procedures for measuring energy consumption of furnaces.

Current testing and rating requirements for furnaces are described in a number of standards, including: ANSI Z21.47–1973 for gas fueled gravity and forced air central furnaces; ANSI Z91.1–1972 for oil fueled air central furnaces; ARI 280–74 for electric furnaces and boilers; ANSI Z21.13–1974 for gas fueled boilers; and the Hydronic Institute's "Testing and Rating Standard for Cast Iron and Steel Heating Boilers" for oil fueled boilers. These standards measure the steady state efficiency of furnaces but do not account for any part load or seasonal performance effects. In order to estimate the seasonal efficiency and annual operating cost of fossil fuel heating systems, it is necessary to account for the various heating system losses under cyclic or part load operating conditions and for the effect of combustion and draft control air on infiltration. The test procedures and calculation methods formulated by NBS and proposed herein today, utilize portions of the industry standards described above while also accounting for these factors.

Under the requirements of section 32 of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et. seq.), as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70), the Administrator must name the organization which promulgated any commercial standards which were contained in, or authorized ards are incorporated in the proposed rule in the notice of rulemaking. The Administrator is also required to state whether, in his judgement, the named organization complied with the requirements of subsection (b) of section 32. As noted above, various industry standards are incorporated in the propjosedl regulations. It is the judgement of the Administrator that the above named standards did not comply with the requirements of section 32(b), in that the standards were not developed in a manner which provided for public participation, comment, and review. In this rulemaking, FEA is providing interested persons an opportunity to comment on the appropriateness of these standards as used in the furnace test procedure. Comments are specifically requested on any specific changes the person commenting believes are necessary to make the standards appropriate for the purposes of testing furnaces.

Today's proposal adds to § 430.2 a definition of "furnace" and amends the definition in § 430.2 of "Basic model" by adding a subparagraph (14) applying specifically to furnaces. In addition, § 430.2 contains definitions proposed

previously (42 FR 15423, March 12, 1977) some of which are applicable to the test procedures for furnaces. Comments on these definitions are timely as provided below.

B. MEASURES OF ENERGY CONSUMPTION

The Act requires FEA to prescribe test procedures for the determination of estimated annual operating costs and at least one other useful measure of energy consumption which the Administrator determines is likely to assist consumers in making purchasing decisions. The estimated annual operating cost for furnaces in proposed § 430.22(n) is the product of the average annual energy consumption of the furnace and the representative average unit cost of energy.

NBS has developed a method of calculating a typical annual cost of operation for furnaces which takes into account the annual fuel utilization efficiency, the heating load hours, the residence design heat loss, the auxiliary electrical energy used by forced air furnace blower motors, or boiler water pumps, powered burner motors, and the pilot input rate if applicable.

Also proposed in § 430.22(n) are test procedures regarding the estimated annual operating cost by geographic region of the United States, since energy consumption and annual operating cost of furnaces are directly related to geographic location. Annual cost of operation by geographic location may be useful for consumers in making purchasing decisions with respect to furnaces in addition to the single national average value applicable to any specific unit under proposed § 430.22(n). Also proposed in § 430.22(n) are test procedures for calculating annual operating costs for several standardized design heating requirements for each region in order to facilitate the comparison of operating costs of different size furnaces and comparison with heat pumps.

The proposed test procedures for regional costs incorporate a map of the continental United States with regional "heating load hours" for adjusting the representative average use cycle (typical annual usage) of furnaces by geographic location. These regional values of "heating load hours" are based on the average number of degree days and the outdoor design temperature for each region.

An additional proposed measure of energy consumption in § 430.22(n) that is likely to assist consumers in making purchasing decisions is the fuel utilization efficiency. This efficiency is the ratio of the furnace's annual output of useful energy to the annual fuel energy input of the furnace multiplied by 100. The test procedures are designed to measure the fuel utilization efficiency at a part-load operating condition in order to account for both on-cycle energy losses and off-cycle energy losses. Both types of losses can be influenced by furnace design characteristics and features.

On-cycle losses include:

(1) Energy contained in the combustion gases which are discharged outdoors through the flue;

(2) The loss of heated room air used for combustion at the burner and for dilution of hot combustion gases through the draft hood, integral draft diverter, or barometric draft regulator.

Off-cycle losses include:

(3) The loss of heat stored in the metal of the furnace heat exchanger when the burner and circulating warm air blower shuts off.

(4) The loss of heated room air which escapes through the open furnace stack to the outdoors;

(5) Fuel input to a continuously burning gas pilot.

FEA recognizes that there may be additional useful measures of energy consumption for furnaces other than the measures described above. According, today's proposal, in proposed § 430.22(n), provides for the addition of other useful measures which the Administration determines are likely to assist consumers in making purchasing decisions. These measures, however, must be derived from the application of the uniform test methods proposed today as Appendix N to Subpart B. Furnace manufacturers would, if required, only have to perform different computations with the data generated by the existing test methods contained in Appendix N.

C. LABORATORY METHODOLOGY

The proposed test procedures are based upon the heat loss method in which the sensible and latent heat losses through the stack are determined. Since these losses will depend upon such factors as load, cycling rate, chimney height, over sizing, the type of draft control device, the infiltration characteristics of a residence and weather profile, it is desirable to measure in the laboratory, quantities which characterize the performance of a furnace under standardized laboratory test conditions and then to calculate its performance under typical field conditions. This has the advantage of simplifying the amount of experimental laboratory data required and thereby reducing the costs of testing.

The test procedures require measurement of the steady-state performance of a furnace in order to calculate a steady-state efficiency. For furnaces without integral draft diverters, this is accomplished by measurng the steady-state flue gas temperature and the concentration by volume of carbon dioxide in the flue gas. For furnaces utilizing integral draft diverters, the steady-state performance is determined by measuring the steady-state stack gas temperature and the concentration by volume of carbon dioxide in the dry stack gas. This latter method is employed because of the difficulty in accurately measuring flue gas temperatures and concentrations of carbon dioxide in units with integral draft diverters.

The test procedures account for cyclic effects by measuring flue gas temperatures during warm-up from a cold start and cool-down from steady-state operation. As noted above, actual flue gas temperature measurements on furnaces with integral draft diverters are difficult to make, however, for purposes of accounting for transient effects, it was determined that flue gas temperatures could be measured by blocking the draft diverter relief opening, replacing the 5-foot stack with a 2-foot length of flue pipe, and measuring the temperature and $CO_2$ concentration of the flue gas. The flue gas temperature profiles are determined by making two discrete flue gas temperature measurements during warm-up and three discrete measurements during cool-down. The use of discrete warm-up and cool-down temperature measurements reduces the amount of data required and greatly simplifies the process of data reduction. The times at which these discrete flue gas temperature measurements are made were chosen to minimize the errors involved in calculating the on-cycle losses. As a result, different sets of times are recommended for furnaces and low pressure steam and hot water boilers.

In addition to the above mentioned tests, certain factors, which describe the flow rates through the flue and stack during the on and off-periods, are assigned according to the type of equipment under test. The factor $S/F$, which is the ratio of stack gas mass flow rate to flue gas mass flow rate under steady-state operation and at an average outdoor temperature of 42F (5.56C), is used to estimate the infiltration losses during both the on and off-cycles. By assigning values which are based upon field data, the need to simulate field conditions in the laboratory (eg. a high chimney, a low outdoor temperature, a typical barometric damper setting, etc.) is avoided. A factor $D_F$ represents the ratio of the gas mass flow rate through the flue during the off-cycle to the gas mass flow rate through the flue during the on-cycle at identical temperatures. A similar quantity, $D_S$, is the ratio of the stack gas mass flow rates during the on-period to the stack gas mass flow rate during the off-period at identical temperatures. The values of $D_F$ and $D_S$ depend upon whether the system being tested employs a stack damper and/or a power burner. If a unit is equipped with a stack damper, its effectiveness is determined by measuring the amount of stack area which the damper blocks during the off-cycle. Furnaces or low pressure steam and hot water boilers using power burners may employ an assigned power burner factor of $D_F = 0.30$ or measure $D_F$ directly by employing a tracer gas to determine the mass flow rate in the flue while the power burner is off.

Wherever possible the test methods recommended herein have been based upon existing consensus standards and procedures presently employed by manufacturers to evaluate the performance of central heating equipment. This was done to reduce the amount of duplicate testing required and to obtain a set of performance tests which would be within the capabilities of the entire furnace industry.

A step-by-step calculation procedure for determing fuel utilization efficiency based upon an average U.S. weather pat-

tern is given in §§ 4.1 and 4.2 for gas and oil-fueled central heating equipment. A worksheet is illustrated which may be used to keep track of the experimental data and the various step-by-step calculations. This efficiency factor is used to estimate the annual cost of operation in different climatic regions and an average operating cost for the country. The technical background, assumptions and equations which form the basis for the fuel utilization efficiency calculation and annual operating cost calculation are contained in Appendix A of the NBS test procedure review document.

Assigned values of the factors $S/F$, $D_r$ and/or $D_f$ are given in Tables 1 and 2. The factor $\phi$ is the fraction of combustion and draft control air which contributes to additional residential infiltration and is assumed to equal \$.70 for furnaces and low pressure steam and hot water boilers using indoor air. The quantity (1 + a) is the ratio of the furnace steady-state output to the design heating requirement of a typical residence and is set equal to 1.70 for the purpose of calculating a fuel utilization efficiency and an average national operating cost.

The steady-state latent and sensible heat losses and the steady-state efficiency $\eta_{ss}$, are also calculated in section 4.2. The flue-gas and stack-gas temperature profiles, corresponding to warm-up from a cold start and cool-down from steady-state operation, are then approximated by simple experimental functions having the form

$$(a\,e^{-t/\tau}+b).$$

The parameters in these functions

$$\tau_{ON},\ \tau_{OFF},\ \Theta_{F,0,X},\ \Psi_{F,0,X},\ \Psi_{F,\infty,X},\ \Psi_{S,0,X},\ \text{and}\ \Psi_{S,\infty,X}$$

are determined from the warm-up, cool-down and steady-state flue temperature measurements and are corrected for the effect of cycling to obtain the flue-gas and stack-gas temperature-vs-time profiles which would exist if the unit were operating in the field at a heating load factor equal to 22.5 percent. For outdoor units or units designed to use outdoor air for combustion and draft control, a further adjustment to these profiles is made using a correction factor $C_r$ to account for the fact that the air used for combustion has an average temperature of 42F (5.56C).

The flue-gas and stack-gas temperature-vs-time profiles are employed, along with the factors describing the on and and off-cycle air flow rates, to calculate the dynamic system losses $L_{S,on}$, $L_{S,off}$, $L_{I,on}$, and $L_{I,off}$, at the average heating load factor and the average outdoor temperature of 22.5 percent and 42F (5:56C), respectively. These losses, together with the latent heat loss, jacket loss on outdoor units, and the pilot light loss during the non-heating season, are then used to calculate an annual fuel utilization efficiency, $EFFY_A$.

### D. Representative Average Use Cycle

Section 323(b)(2) (42 U.S.C. 6293 (b)(2)) of the Act provides that test procedures for determining estimated annual operating costs of any covered product shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator) and from representative average unit costs (as provided by the Administrator) needed to operate such product during such cycle. FEA has determined that the representative average-use cycle for furnaces is 2,080 heating load hours per year. This determination is based upon an NBS recommendation to FEA. The NBS recommendation is included in the NBS test procedure review document which is available for inspection as provided for later in this notice.

The average use cycle of 2,080 heating load hours for furnaces was derived in an analysis performed by NBS which considered outdoor temperature data extending over a 25-year period at locations in each of the 48 states in the continental United States and the District of Columbia. In addition, the number of housing units in each state using gas or oil as the primary fuel for heating, as reported in the 1970 U.S. Census, was also used in the analysis.

Using the number of housing units by state as weighting factors, and the average outdoor design temperature at each location, a national average outdoor design temperature was calculated to be 5° F. A similar computation was performed using average annual heating degree day values for each state resulting in a national average of 5,200 heating degree days. The average annual heating load hours was then calculated by multiplying the average number of degree days by 24 and dividing that result by the temperature difference between 65° F and the average outdoor design temperature; the result being 2,080 heating load hours per year.

FEA has developed representative average unit costs of energy needed to calculate the annual operating cost for the representative average use cycle. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

### E. Number of Units To Be Tested

Proposed § 430.23(n) would provide for sampling of each basic model to be tested when testing of furnaces is required by the Act or by program regulations of agencies responsible for administering the Act. This provision is intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers. FEA believes that the sampling approach proposed today will enable consumers to make meaningful comparisons of information appearing on appliance labels, and also will meet the requirements of section 323(b) of the Act that test procedures not be unduly burdensome to conduct.

Under proposed § 430.23(n), a sample of sufficient size of each basic model would be tested to assure that, for each measure of energy consumption described in § 430.22(n), there is a 95 percent probability that the mean of the values of these measures of the sample is within 5 percent of the true mean of these measures of the basic model. The size of the sample of a particular basic model will depend upon the following factors:

(1) The level of confidence required (set at 95 percent in the proposed regulations);
(2) The maximum allowable difference between the sample mean and the mean of the basic model (expressed in the proposal as a percent of the true mean and set at 5 percent); and
(3) The relationship of the mean and standard deviation of the basic model.

The relationship of the mean and standard deviation of the basic model can be determined from data available to manufacturers. With this information and using standard statistical techniques, manufacturers can determine the number of units required to be tested. In any case, at least 1 unit of each basic model must be tested. Sample units would be selected randomly from the production stream.

Manufacturers and other interested persons are encouraged to comment on the sampling approach. Manufacturers are especially encouraged to submit any data which relates to the size of the samples which the provision would require to be tested. Comments alleging that the sampling provision is burdensome should include a full discussion of the facts upon which such allegation is based.

### F. Request for Particular Comments

While FEA is soliciting comments on all aspects of the proposed test procedures for furnaces, FEA is particularly interested in receiving comments on the following subjects:

1. Other useful measures of energy consumption or data on typical consumer usage of furnaces in addition to those proposed today.
2. The appropriateness of incorporating the following proposed sections of ANSI Standards relating to jacket losses of forced air furnaces intended to be installed out-of-doors:
(a) For gas fueled and electric furnaces—ANSI Z 21.47—1973, §§ 2.9.1 and 2.9.2
(b) For oil fueled furnaces—ANSI Z 91.1—1972, Appendix B
3. Definitions already promulgated or proposed in § 430.2 which may affect the testing of furnaces. Comments with respect to such definitions are timely until the close of the written record as specified below.

### G. Comment Procedure

1. *Written Comment.* Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed test procedures for furnaces set forth in

this notice to Executive Communications, Room 3317, Federal Energy Administration, Box NX, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "FURNACES—Proposed Test Procedures." Fifteen copies should be submitted. All comments received by September 27, 1977, before 4:30 p.m., e.s.t., and all other relevant information, will be considered by FEA before final action is taken on the proposed test procedures.

Any information or data considered confidential by the person furnishing it must be so identified in writing, and only one copy of the information need be submitted. FEA reserves the right to determine the confidential status of the information or data and treat it according to its determination.

2. *Public Hearings.* (a) *Request procedure.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on October 5, 1977.

FEA invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received before 4:30 p.m., e.s.t., on September 22, 1977. Such a request may be hand delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "FURNACES—Proposed Test Procedures," Box NX.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through October 4, 1977.

FEA will notify each person selected to appear at the hearing before 4:30 p.m., September 26, 1977. Each person selected to be heard must submit 50 copies of her or his statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at 202–254–3345.

(b) *Conduct of hearing.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of the hearing will be based on all information available to FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, Box NX, FEA, before 4:30 p.m., e.s.t., September 27, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. A copy of NBS' recommendations concerning test procedures for FURNACES will be made available for inspection at the FEA Freedom of Information Office.

## H. Environmental and Inflationary Review

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for this comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires FEA to assess the environmental impacts of any proposal by the Agency for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quantity or distribution of energy usage, FEA has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, FEA has determined that, with respect to prescribing test procedures under the conservation program for appliances, no environmental impact statement is required.

The proposal has been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A–107 and has been determined not to be a major proposal requiring evaluation of its economic impact as provided for therein.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., July 28, 1977.

Eric J. Fygi,
*Acting General Counsel,*
*Federal Energy Administration.*

1. Section 430.2 is amended by adding a subparagraph (14) as part of the definition of "Basic model" and by adding the definitions of "furnace," "forced air central furnace," "gravity central furnace," "electric central furnace," "low pressure steam or hot water boiler," "electric boiler," and "direct vent system," to read as follows:

§ 430.2 **Definitions.**

* * * * *

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

* * * * *

(14) With respect to furnaces, having the same primary energy source and essentially identical functional physical and electric characteristics.

* * * * *

"Furnace" means a device designed to be the principal heating source for the living space of a residence having a heat input rate less than 400,000 Btu's per hour, and includes forced air central furnace, gravity central furnace, electric central furnace, electric boiler, and low pressure steam or hot water boiler.

"Forced air central furnace" means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

"Gravity central furnace" means a gas fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.

"Electric central furnace" means a furnace designed to supply heat through a system of ducts with air as the heating medium, and in which heat is generated by one or more electric resistance heat-

ing elements and the heated air is circulated by means of a fan or blower.

"Direct vent system" means a system supplied by a manufacturer which provides outdoor air directly to a furnace for combustion and draft relief, if the unit is so equipped.

"Electric boiler' means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

"Low pressure steam or hot water boiler" means a gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

2. Section 430.22 is amended by adding paragraph (n), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(n) *Furnaces.* (1) The estimated annual operating costs for furnaces shall be the sum of: (A) the product of the average annual fuel energy consumption in Btu's per year for gas or oil furnaces and in kilowatt-hours per year for electric furnaces, determined according to 4.8 and 4.10 of Appendix N of this subpart, respectively, and the representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided by the Administrator plus (B) the product of the average annual auxiliary electric energy consumption in kilowatt-hours per year, determined according to 4.9 of Appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(2) The annual fuel utilization efficiency for furnaces, expressed in percent, shall be the ratio of annual output of useful energy delivered to the heated space to the annual fuel energy input to the furnace determined according to 4.2.33 of Appendix N of this subpart.

(3) The estimated regional annual operating costs for furnaces computed for minimum or maximum standardized design heating requirements shall be the sum of: (A) the product of the regional annual fuel energy consumption for the minimum or maximum standardized design heating requirement in Btu's per year for gas or oil furnaces and in kilowatt-hours per year for electric furnaces, determined according to 4.19, 4.20, 4.23, or 4.24, of Appendix N of this subpart, respectively, and the reprsentative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided by the Administrator plus (B) the product of the regional annual auxiliary electrical energy consumption in kilowatt-hours per year determined according to 4.21 or 4.22 of Appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(4) The estimated regional annual operating cost for furnaces shall be the sum of: (A) the product of the regional annual fuel energy consumption in Btu's per year for gas or oil furnaces and in kilowatt-hours per year for electric furnaces, determined according to 4.12 and 4.14 of Appendix N of this subpart, respectively, and the representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided by the Administrator plus (B) the product of the regional auxiliary electrical energy consumption in kilowatt-hours per year, determined according to 4.13 of appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(5) Other useful measures of energy consumption for furnaces shall be those measures of energy consumption which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix N of this subpart.

3. Section 430.23 is amended by adding a paragraph (n) to read as follows:

§ 430.23 Units to be tested.

* * * * *

(n) *Furnaces.* (1) When testing of furnaces is required for a measure or measures of energy consumption described in 430.22(n) of this subpart, a sample of sufficient size of each basic model shall be tested to ensure that, for each such measure of energy consumption, there is a 95 percent probability that the mean of the sample is within 5 percent of the true mean of such measures of the basic model, except that a minimum of 1 unit of each basic model shall be tested.

(2) The sample selected for paragraph (n)(1) of this section shall be a simple random sample drawn from the production stream of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (n)(1) of this section is satisfied at each rating.

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APPENDIX N—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF FURNACES

1.0 DEFINITIONS

1.1 "Steady-state conditions for forced air or gravity central furnaces" means equilibrium conditions in the flue gas as indicated by temperature changes of not more than plus or minus 5° F (2.8° C) in three successive temperature readings taken 15 minutes apart.

1.2 "Steady-state conditions for low pressure steam and hot water boilers" means equilibrium conditions during operation as indicated by temperature changes of not more than 5° F (2.8° C) in the flue gas temperature, and either 4° F (2.2° C) in the outlet water temperature for hot water boilers, or 7° F (3.9° C) in the outlet steam temperature for low pressure steam boilers, in three successive temperature readings taken 15 minutes apart.

1.3 "Flue gases" means reaction products resulting from the combustion of a fuel with the oxygen of the air, including the inerts and any excess air.

1.4 "Excess air" means air which passes through the combustion chamber and the furnace flues in excess of that which is theoretically required for complete combustion.

1.5 "Flue" means a conduit between the flue outlet of the furnace and the draft hood or barometric draft regulator through which the flue gases pass prior to the point of draft relief.

1.6 "Flue outlet" means the opening provided in a furnace for the exhaust of the flue gases from the combustion chamber.

1.7 "Flue losses" means the sum of sensible and latent heat losses above room temperature (70° F) of the flue gases leaving the furnace.

1.8 "Stack" means the portion of the exhaust system downstream of the draft hood or barometric draft regulator.

1.9 "Stack gases" means the flue gases combined with dilution air that enters at the draft hood, integral draft diverter, or barometric draft regulator.

1.10 "Barometric draft regulator" means a device designed to maintain a constant draft in a furnace or boiler.

1.11 "Air shutter" means an adjustable device for varying the size of the primary air inlet(s) to the combustionchamber.

1.12 "Power burner" means a furnace burner which supplies either gas or air or both at pressures exceeding, for gas, the line pressure, and for air, atmospheric pressure, or a burner which depends on the draft induced by a fan for proper operation.

1.13 "Vent limiter" means a device which limits the flow of air from the atmospheric diaphragm chamber of a gas pressure regulator to the atmosphere. A vent limiter may be a limiting orifice or other limiting device.

1.14 "Exhaust/air intake terminal" means a device which is located on the outside of a building and is connected to a furnace by a system of vents. It is composed of an air intake terminal through which the air for combustion is taken from the outside atmosphere, and an exhaust terminal from which flue gases are discharged.

1.15 "Heating element" means the electrical conducting medium which is intended to be heated by an electric current and which dissipates this heat into the air stream.

1.16 "Induced draft" means a method of drawing air into the combustion chamber by mechanical means.

1.17 "Plenum" means an air compartment, that is attached to, or is an integral part of, a forced air furnance and which is designed to either distribute the heated air after it leaves the heat exchanger in the case of a supply plenum, or collects the air which enters the return inlet in the case of a return plenum.

1.18 "Heat input" ($Q_{in}$) means the rate of energy supplied in a fuel to a furnace, operating under steady state conditions, expressed in Btu's per hour. It includes any input energy to the pilot light and is obtained by multiplying the measured rate of fuel consumption by the measured higher heating value of the fuel.

1.19 "Draft hood" means a device made a part of the stack from a furnace, which is designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft hood, (2) prevent a back draft from entering the furnace, and (3) neutralize the effect of stack action of the chimney or gas vent upon the operation of the furnace.

1.20 "Higher heating value" (*HHV*) means the heat produced per unit of fuel when complete combustion takes place at constant pressure and the products of combustion are cooled to the initial temperature of the fuel and air and when the water vapor formed during combustion is condensed. The higher heating value is expressed in Btu's per pound, Btu's per cubic foot for gaseous fuel, or Btu's per gallon for liquid fuel.

1.21 "Integral draft diverter" means a device which is an integral part of a furnace, which is designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft diverter, (2) prevent a back draft from entering the furnace, (3) neutralize the effect of stack action of the chimney or gas vent upon the operation of the furnace.

2.0 TESTING CONDITIONS

2.1 *Installation of Test Plenum, Duct Work, and Piping*

2.1.1 Gravity Central Furnaces (Including Direct Vent Systems)

Gravity central furnaces shall be installed and equipped with a vertical supply test plenum or extended casing and horizontal test ducts as described in Section 2.9.1 of ANSI Standard Z21.47-1973.

2.1.2 Forced Air Central Furnaces (Including Direct Vent Systems)

Gas-fueled forced air central furnaces shall be equipped with a plenum and test duct as described in Sections 2.1.9 and 2.1.10 of ANSI Standard Z21.47-1973. Oil fueled forced air central furnaces shall be equipped with a plenum and test duct as described in Section 6.2 of ANSI Standard Z91.1-1972.

2.1.3 Low Pressure Steam and Hot Water Boilers (Including Direct Vent Systems)

Install gas-fueled low pressure steam and hot water boilers as prescribed in Section 2.9 of ANSI Standard Z21.13, 1974. Install oil-fueled low pressure steam and hot water boilers as prescribed in Sections 7.0 and 8.1.1 through 8.1.3 of the Hydronic Institute Testing and Rating Standard for Cast Iron and Steel Heating Boilers, January 1977.

2.1.4 Electric Central Furnaces

Install equipment for testing in accordance with ARI Standard 280-74, Section 4 and Figure 1.

2.1.5 Electric Boilers

Install equipment in accordance with manufacturer's instructions.

2.2 *Flue and Stack Requirements*

2.2.1 Gravity and Forced Air Central Furnaces

2.2.1.1 Gravity and gas fueled forced air central furnaces employing integral draft diverters.

For the steady state performance test described below, gravity and gas fueled forced air central furnaces employing integral draft diverters with vertically discharging furnace outlets shall have attached to and vertically above the outlet, a stack having a diameter the same size as the outlet and shall be covered with insulation having an $R$ value of not less than 7 (°F−HR−Ft²/Btu) and an outer layer of aluminium foil. The stack shall extend not less than 5 feet nor more than five feet six inches above the highest point of the outlet. Furnaces having a horizontally discharging furnace outlet shall have attached an insulated 90 degree elbow, the same size as the outlet, and sufficient vertical insulated black iron pipe so that the outlet is not less than five feet nor more than five feet six inches above the highest point of the furnace outlet. The stack and elbow shall be covered with insulation having an $R$ value of not less than 7 (°F−HR−Ft²/Btu) and an outer layer of aluminum foil.

A two foot long insulated flue pipe shall be used for gas units having vertically discharging flue outlets in the tests for measuring flue temperatures during warm-up and cool-down. The flue pipe shall be covered with insulation having an $R$ value of not less than 7 (°F−HR−Ft²/Btu) and an outer layer of aluminum foil.

2.2.1.2. Gravity and gas fueled forced air central furnaces which do not employ integral draft diverters.

Gravity and gas fueled forced air central furnaces which do not employ integral draft diverters shall have a two foot long insulated flue pipe attached to the vertically discharging flue outlet for the steady state test and tests to measure flue temperatures during warm-up and cool-down. For units having a horizontally discharging flue outlet, an elbow and a two foot long vertical insulated flue pipe shall be attached to the outlet. All insulation shall have an $R$ value not less than 7 (°F−HR−Ft²/Btu) and an outer layer of aluminum foil.

2.2.1.3. Oil fueled forced air central furnaces.

Flue connections for oil fueled forced air central furnaces are to be as described in Figures 1 and 2 of ANSI Standard Z91.1-1972. There shall be no opening on the oil furnace between the furnace and the point where the flue gas sample is to be taken of the flue gas temperature is to be measured. If a barometric draft regulator is incorporated in the furnace, it shall be sealed during all tests.

2.2.2 Low Pressure Steam and Hot Water Boilers (not including direct vent systems)

Gas fueled low pressure steam and hot water boilers employing draft hoods shall have such hoods in place during all performance tests.

Flue connections for low pressure steam and hot water boilers are described in the Hydronic Institute Standard "Testing and Rating Standard for Cast Iron and Steel Heating Boilers," Section 7.2.

2.2.3 Direct Vent Systems

The exhaust/air intake system supplied by the manufacturer shall be in place during all tests. A furnace employing a direct vent system shall not be connected to a chimney or induced draft source, but shall depend for venting of exhaust gases solely on the provision for venting incorporated in the furnace and the exhaust/air intake system supplied with it. On units which are not designed to preheat the incoming air, the first 18 inches of vent pipe downstream of the furnace outlet shall be insulated with a layer of insulation having an $R$ value of 7 (°F−HR−Ft²/Btu) and the insulation material covered by a layer of aluminum foil.

2.3 *Fuel Supply*

2.3.1 Natural Gas

For a furnace utilizing natural gas, maintain the gas supply to the unit under test at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches water column. The regulator outlet pressure at normal test pressure shall be approximately that recommended by the manufacturer. Use natural gas having a specific gravity of approximately 0.6 and a higher heating value within ±5 percent of 1,025 Btu per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the natural gas to be used in the test with an error no greater than one percent.

2.3.2 Propane Gas

For a furnace utilizing propane gas, maintain the gas supply to the unit under test at a normal inlet pressure of 11 to 13 inches water column. The regulator outlet pressure at normal test pressure shall be approximately that recommended by the manufacturer. Use propane HD-5 having a specific gravity of approximately 1.55 and a higher heating value within ±5 percent of 2,500 Btu's per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the propane to be used in the test with an error no greater than one percent.

2.3.3 Other Test Gas

The characteristics of other test gases shall be maintained as described in Section 2.2, Table VII, of ANSI Standard Z21.47. Their measured higher heating value shall be within ±5 percent of the values specified in the above ANSI standard.

2.3.4 Oil Supply

For a furnace utilizing fuel oil, the fuel oil used shall be No. 2 fuel oil and shall conform to the specifications outlined in Tables 2 and 3 of ANSI Standard Z91.1-1972. The higher heating value of the test fuel oil shall be measured with an error no greater than one percent.

2.3.5 Electrical Supply

For an electric furnace or boiler, or for an auxiliary electric component of a gas or oil fueled furnace, maintain the electrical supply to the test unit within one percent of the nameplate voltage for the entire portion of the test cycle. If a voltage range is used for nameplate voltage, maintain the electrical supply within one percent of the center of the nameplate voltage range.

2.4 *Burner Adjustments*

2.4.1 Gas Burner Adjustments

Burners of gas fueled furnaces shall be adjusted to their maximum Btu ratings at normal test pressure. All such adjustments shall be within ±2 percent of the hourly Btu rating specified by the manufacturer as measured after 15 minutes of operation starting with all parts of the furnace at room temperature. The primary air shutters shall be set at the maximum opening, correct burner input flow rate to standard conditions of 60° F and 30 inches mercury barometric pressure.

If a vent limiting means is provided on a gas pressure regulator, it shall be in place during all tests.

2.4.2 Oil Burner Adjustments

The burners of oil fueled furnaces shall be adjusted to give the best $CO_2$ reading and an hourly Btu input during the steady-state performance test described below which is within plus or minus 2 percent of the furnace manufacturer's specified normal hourly Btu input rating. Smoke in the flue shall not exceed a No. 2 smoke during the steady-state performance test as measured by the procedure in ANSI Standard Z11.182-1965 (R1971) (ASTM D 2156-65(1970)). The average draft over the fire and in the flue during the steady-state performance test shall be that recommended by the manufacturer and draft fluctuations shall not exceed 0.005 inches of water gauge. No additional adjustments to the burner shall be made during the required series of performance tests. The instruments and measuring apparatus for this test are described in Section 6.3 of ANSI Standard Z91.1-1972.

2.5 *Circulating Air, Steam, or Water Flow Adjustments*

2.5.1 Gas Fueled Forced Air Central Furnaces (including direct vent systems)

The external static pressure and air flow rate shall be adjusted as specified in Sections 2.1.11, 2.1.12, and 2.1.13 of ANSI Standard Z21.47-1973. Outlet air temperature shall be measured in accordance with Section 2.9.1 of the same standard.

2.5.2 Gravity Central Furnaces

The air flow rate through the furnace shall be such that the average normal air temperature rise at steady-state is not greater than 130° F above the inlet air temperature when the furnace is equipped with the vertical test plenum or extended casing and horizontal test ducts as described in Section 2.9.1 of ANSI Standard Z21.47-1973. Measure the outlet air temperature as specified in Section 2.9.1 of the above standard. The inlet air temperature shall be measured at the center of the plane of each inlet air opening by means of single No. 24 AWG lead type thermocouple, suitably shielded from direct radiation.

2.5.3 Oil Fueled Forced Air Central Furnaces

The external static pressure and air throughput rate shall be adjusted as specified in Table 5 and Section 6.2 of ANSI Standard Z91.1-1972.

2.5.4 Gas Fueled Low Pressure Steam and Hot Water Boilers

Circulating water or steam flow shall be adjusted to obtain the operating conditions of steam or water described in ANSI Standard Z21.13-1974, Section 2.9.

2.5.5 Oil Fueled Low Pressure Steam and Hot Water Boilers

The water flow rate for hot water boilers shall be adjusted to produce a water temperature rise, during steady-state operation, between 120° F (48.9 C) and 165° F (73.9° C) and an outlet water temperature of 200° F (93.3° C) plus or minus 5° F (2.8° C).

2.5.6 Electric Central Furnaces

Use the air quantity and pressures specified by ARI Standard 280-74, sections 7.2.1 and 6.2.3.

2.5.7 Electric Boilers

The flow of water or steam shall be as specified in Section 2.5.4.

2.6 *Thermocouple Installation*

2.6.1 Gravity and Gas Fueled Forced Air Central Furnaces and Low Pressure Steam and Hot Water Boilers

For units employing an integral draft diverter, install nine thermocouples in a horizontal plane in the five foot stack at 4 ft. 6 in. above the highest point of the furnace outlet.

Install one thermocouple in the center of the stack. Install eight thermocouples along imaginery lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the pipe and the pipe wall. Install one thermocouple in the center of the 2 ft. length of insulated flue pipe at the midpoint (i.e., one ft. from the end).

For units which do not employ an integral draft diverter, install nine thermocouples in a horizontal plane 12 inches from the outlet of the 2 foot length of insulated flue pipe. Install one thermocouple in the center of the flue pipe and eight thermocouples along imaginery lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the flue pipe and the flue pipe wall.

Use bead-type thermocouples having wire size not greater than No. 24 American Wire Gauge (AWG).

The locations of thermocouples used for measuring conditioned warm air are described in ANSI Z21.47-1973, Section 2.9. The temperature of the inlet air shall be established by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center for the plane of each inlet air opening.

2.6.2 Oil Fueled Forced Air Central Furnaces

Thermocouples shall be installed as described in Section 6.3 of ANSI Standard Z91.1-1972 and as shown in Figures 2 and 3 of the same standard using thermocouple wire not larger than 24 AWG.

2.6.3 Gas Fueled Low Pressure Steam and Hot Water Boilers with Direct Vent Systems

Install thermocouples using the following procedures: on direct vent units which preheat the incoming combustion air, two lines intersecting at right angles shall be established inside the vent pipe in a plane parallel to and one inch (25.4 mm) from the outlet of the vent pipe. On direct vent units which do not preheat the incoming combustion air, two lines intersecting at right angles shall be established inside the vent pipe in a plane located within 12 inches of the boiler outlet. These two lines shall be oriented so that they will divide the internal area into quadrants. One thermocouple shall be placed at the intersection of the two lines. Eight thermocouples shall be placed in sets of four along each line at points one third and two thirds of the distance from the intersection to the periphery. Use bead-type thermocouples, not larger than 24 AWG.

2.6.4 Oil Fueled Low Pressure Steam and Hot Water Boilers

Flue pipe and gas temperature instrumentation shall be in accordance with the Hydronic Institute "Testing and Rating Standard for Cast Iron and Steel Heating Boilers," January 1977.

2.6.5 Forced Air Central Furnaces with Direct Vent Systems

For units that are designed to preheat combustion air, install nine thermocouples along two imaginary lines intersecting at right angles inside the vent pipe in a plane parallel to and one inch (25.4 mm) from the outlet of the vent pipe. The lines shall be oriented so that they will divide the internal area into quadrants. One thermocouple shall be located at the intersection of the two lines. Eight thermocouples shall be located in sets of two along each line at points one third and two thirds of the distance from the intersection to the periphery. Use bead-type thermocouples not larger than 24 AWG, at the specified locations. Thermocouples and their locations used for measuring conditioned warm air are described in ANSI Z21.47-1973, Section 2.9.

For units not designed to preheat combustion air, locate the nine thermocouples in a place one foot from the outlet of the furnace and in the configuration described above.

2.7 *Combustion Measurement Instrumentation*

The samples of stack and flue gases for furnaces shall be analyzed to determine the concentration by volume of carbon dioxide present in the dry stack and flue gas with instrumentation which will result in a reading having an accuracy of ±3 percent.

2.8 *Energy Flow Instrumentation*

Install one or more energy flow instruments, which measure the quantity of electrical energy, gas flow, or fuel oil supplied to the furnace, as appropriate, with an error no greater than one percent.

2.9 *Room Ambient Temperature*

Maintain the test room at an ambient air temperature between 65° F and 75° F. Use the procedure outlined in Section 2.1.14 of ANSI Standard Z21.47-1973 to measure room temperature.

2.10 *Equipment Used to Measure Mass Flow Rate in Flue and Stack*

The tracer gas chosen for this task should have a density which is approximately equal to the density of air. It shall be of different chemical species or different concentration from the flue gas to be measured and shall be unreactive with the environment to be encountered. Instrumentation used to measure the concentration of tracer gas may be either the batch or continuous type with an accuracy of ±2 percent of the value of the concentration measured.

3.0 TESTING AND MEASUREMENTS

3.1 *Steady-State Testing*

3.1.1 Gravity and Gas Fueled Forced Air Central Furnaces

3.1.1.1 Stack Gas Temperature and $CO_2$ Measurements.

The following procedure is only to be used for gravity and gas fueled forced air central furnaces with integral draft diverters.

The furnace shall be set up as specified in 2.1.1. or 2.1.2, 2.2.1 and 2.3.1-2.3.3. Begin the steady-state performance test by operating the burner and the circulating air blower with the adjustments specified by 2.4.1 and 2.5.1 until a steady-state temperature is attained in the stack gas as measured by the center thermocouple located in the 5 foot stack as specified in 2.6.1.

Record the steady-state stack gas temperature ($T_{F,ss}$). Measure a sample of dry stack gases for $CO_2$ ($X_{CO_2,s}$) in accordance with the method of test prescribed in ANSI Z21.47-1973, sections 2.9.1 and 2.9.2 and record. Measure heat input rate ($Q_{in}$) including the pilot input and the electrical power input at steady-state conditions and record.

The steady-state heat input rate ($Q_{in}$) including pilot gas shall be determined by multiplying the measured higher heating value of the test gas by the steady-state gas input rate corrected to standard conditions of 60° F and 30 inches mercury.

Measure the steady-state electric power to the circulating air blower (*BE*) and to the power burner (*PE*) on units so equipped and record the data.

3.1.1.2 Flue Gas Temperature and $CO_2$ Measurements.

After the above test measurements have been completed on units employing integral draft diverters, the 5 to 5½ foot long black iron pipe used in the steady-state test shall be removed, the draft diverter relief opening shall be blocked and a 2 foot length of flue pipe installed as described in section 2.6.1. A single bead-type thermocouple not larger than No. 24 AWG shall be located in the center of the flue pipe and 12 inches from its top. After equilibrium conditions are again achieved, as indicated by changes in the flue gas temperature of not more than 5° F (2.8° C) between readings 15 minutes apart, the steady-state flue gas temperature ($T_{F,ss}$) shall be measured using this single thermocouple and a sample of the flue gases shall be taken in the same plane of measurement. The sample of the flue gases shall be analyzed to determine the concentration by volume of $CO_2(X_{CO_2,F})$ present in the dry flue gas.

On units not employing integral draft diverters, the steady-state flue gas temperature shall be measured in the 2 foot length of flue pipe as described in section 2.6 and a sample of the flue gas shall be taken in the plane of measurement. The sample of flue gases shall be analyzed to determine the concentration of $CO_2(X_{CO_2,F})$ present in the dry flue gas.

3.1.2 Gas Fueled Forced Air Central Furnaces with Direct Vent Systems

The furnace shall be set up and adjusted as specified in sections 2.1.2, 2.2.1, 2.3.1-2.3.3, and 2.5.1. Flue temperature ($T_{F,ss}$) and $CO_2(X_{CO_2,F})$ measurements shall be performed at steady-state conditions as prescribed in 3.1.1. with the following exception:

Temperature measurements shall be made at a location which is determined by the design provisions of the furnace for preheating the incoming air as prescribed in section 2.6.1 for thermocouple location.

3.1.3 Oil fueled Forced Air Central Furnaces (not including direct vent systems)

The furnace shall be set up and adjusted as specified in sections 2.1.2, 2.2.1 and 2.3.4. Begin the steady-state performance test by operating the burner and the circulating air blower with the adjustments specified by 2.4.2 and 2.5.3. When steady-state temperature ($T_{F,ss}$) is attained in the flue gas, measure the average flue gas temperature and measure $CO_2(X_{CO_2,F})$ in a sample of the flue gas at the location described in ANSI Standard Z91.1, section 6.5 and record the data. There shall be no opening between the furnace and the point where the flue gas sample is to be measured. If a barometric draft regulator is incorporated in the furnace, it shall be sealed during all tests.

Measure and record the steady-state heat input rate ($Q_{in}$). Measure steady-state electrical power to the air blower (*BE*) and to the power burner (*PE*) and record these data.

3.1.4 Oil Fueled Forced Air Central Furnaces with Direct Vent Systems

Perform the measurements as prescribed in 3.1.3. Provisions of 3.1.3 apply with the following exceptions:

The equipment used for testing shall be specified in 2.2.3 and the installation of duct work shall be as specified by the manufacturer. In addition, furnaces using outdoor air for combustion and draft control and which preheat the incoming combustion air shall have the steady-state concentration of carbon dioxide in the flue gases ($X_{CO_2,F}$), the steady-state flue gas temperature ($T_{F,ss}$) measured at a location which is different from that shown in Figure 2 of ANSI Standard Z91.1-1972. These measurements shall be made close to the outlet of the vent pipe on furnaces with direct vent systems which preheat the incoming air and just upstream of the barometric draft control on units which use out door air for combustion and draft control and which preheat the incoming air. The procedures and instruments for making these measurements shall, however, be the same as those described in section 2.1.3 of ANSI Z91.1-1972, except insulation is required on surfaces of the exhaust/air intake system exposed to ambient air where surface temperatures exceed the room temperature by more than 30° F (16.7° C).

3.1.5 Gas Fueled Low Pressure Steam and Hot Water Boilers

The boiler shall be set up and adjusted as specified in sections 2.1.3, 2.2.2, or 2.2.3, 2.3.1, 2.3.3, 2.6.3, 2.4.1 and 2.5.4. Begin the steady-state test by operating the burner as specified in section 2.4.1 and the steam or hot water adjusted as specified in section 2.5.4. When steady-state conditions are attained, the flue gas temperature ($T_{F,ss}$) and a sample of the dry flue gases shall be measured for the $CO_2$ concentration ($X_{CO_2,F}$) at a location in accordance with ANSI Z21.13-1974, section 2.19, and the values recorded. Measure the steady-state electrical power input (*BE* and *PE*) and heat input rate ($Q_{in}$), including pilot gas. Measure gas temperature and pressure at the meter and barometric pressure and correct the metered gas flow rate to standard conditions of 60° F and 30 inches mercury. Determine the fuel input in Btu per hour using the higher heating value of the fuel.

3.1.6 Oil Fueled Low Pressure Steam and Hot Water Boilers

The boiler shall be set and adjusted as specified in sections 2.1.3, 2.2.2, or 2.2.3, 2.3.4, 2.4.2, and 2.6.4. Begin the steady-state test by operating the burner as specified in section 2.4.2 and adjust the steam or hot water as specified in section 2.5.5. When steady-state conditions are achieved sample the dry flue gases and analyze for $CO_2$ ($X_{CO_2,F}$). Measure the steady-state flue temperature ($T_{F,ss}$). Measure the steady-state fuel input rate and the steady-state electrical input power (*BE* and *PE*). Determine the measured heat input rate in Btu's per hour ($Q_{in}$) using the higher heating value (*HHV*) of the fuel oil and the measured steady-state fuel input rate. Record all values measured.

3.1.7 Electric Forced Air Central Furnaces

The steady-state test for electric furnaces is a measurement of the rated power input ($E_{in}$). In accordance with the test procedure specified in ARI Standard 200-74, section 5.1. All measurements taken shall be at the standard rating condition described in 6.2.1 of Standard 280-74.

3.1.8 Electric boilers

Flow conditions shall be as specified in section 2.5.7. Electrical power input shall be as specified in section 2.3.5.

3.2 *Flue Temperature Measurements—Cool Down Test*

3.2.1 Gravity and Gas Fueled Forced Air Central Furnaces

After steady-state testing is completed, all units with and without integral draft diverters shall have the main burner turned off and the flue gas temperature measured by means of the thermocouple described above, at 1.5 ($T_{F,OFF\,(t_1)}$) and 9.0 ($T_{F,OFF\,(t_2)}$) minutes after the burner shuts off. Units employing both integral draft diverters and stack dampers shall have the damper control bypassed so that the damper remains open during the cool down test. During this off-period the indoor air circulating blower shall be made to operate during the first three minutes of the off period and shall then be turned off unless the furnace employs a single motor to drive a power burner and an indoor air circulating blower in which case both shall be turned off together. The main burner(s) shall remain off until equilibrium conditions are attained, as indicated by temperature changes in the flue gas of not more than 3° F (2.8° C) between readings 15 minutes apart. For unit employing a continuously burning pilot light, a third flue gas temperature measurement shall then be made to determine the off-period minimum flue gas temperature ($T_{F,OFF\,(\infty)}$). For units not employing a continuously burning pilot light, $T_{F,OFF\,(\infty)}$ is assumed to equal 70° F (21.1° C). During this cool down test, the energy input rate to the pilot light ($Q_p$), if the unit is so equipped, shall also be measured to within an accuracy of ±3 percent. Record all measured values.

3.2.2 Gravity and Gas Fueled Forced Air Central Furnaces (including direct vent systems)

After steady-state testing has been completed, turn the main burner off and measure the flue gas temperature at 1.5 ($T_{F,OFF\,(t_1)}$) and 9.0 ($T_{F,OFF\,(t_2)}$) minutes after the burner is shut off using a single bead-type thermocouple, not larger than 24 AWG, located in the center of the flue pipe and the locations prescribed in section 2.6.5. During this off-period, the indoor air circulating blower shall be made to operate during the first 3 minutes of the off-period and shall then be shut off unless the furnace employs a single motor to drive a power burner and an indoor air circulating blower, in which case both shall be turned off. The main burner(s) shall remain off until equilibrium conditions are attained, as indicated by changes in the flue gas temperature of not more than 3° F (2.8° C) between readings 15 minutes apart. For units employing a continuously burning pilot light, a third flue gas temperature measurement shall then be made to determine the off-period minimum flue gas temperature ($T_{F,OFF\,(\infty)}$). For units not employing a continuously burning pilot light, $T_{F,OFF\,(\infty)}$ is assumed to equal 70° F (21.1° C). During this cool down test, the energy input rate to the pilot light ($Q_p$), if the unit is so equipped, shall also be measured to with in an accuracy of ±3 percent. Record all measured values. If a furnace with a direct vent system employs an automatic stack damper, it shall be closed during this cool down test.

3.2.3 Oil Fueled Forced Air Central Furnaces (including direct vent systems)

After steady-state testing has been completed, turn the main burner off and measure the flue gas temperature at 1.5 ($T_{F,OFF\,(t_1)}$) and 9.0 ($T_{F,OFF\,(t_2)}$) minutes after the burner shuts od using a single bead-type thermocouple, not larger than 24 AWG, located in the center of the flue pipe and the locations prescribed in section 2.6.5. During this off-period, the indoor air circulating blower shall be made to operate during the first 3 minutes of the off-period and then turned oil unless the furnace employs a single motor to drive a power burner and an indoor air circulating blower, in which case both shall be turned oil. The burner shall remain off until equilibrium conditions are attained, as indicated by temperature changes in the flue gas of not more than 3° F (2.8° C) between readings 15 minutes apart. For units employing a continuously burning pilot light, a third flue gas temperature measurement shall then be made to determine the off-period minimum flue gas temperature ($T_{F,OFF\,(\infty)}$). For units not employing a continuously burning pilot light, $T_{F,OFF\,(\infty)}$ is assumed to equal 70° F (21.1° C). During the cool down test, the energy input rate to the pilot light ($Q_p$), if the unit is so equipped, shall also be measured to within an accuracy of ±3 percent. Record all measured values. During the cool down test for furnaces not equipped with stack dampers, a means shall be provided to maintain the draft in the flue within ±0.01 inches of water gauge of the average value measured in the steady-state performance test. On units equipped with stack dampers, the damper shall be closed during this cool down test.

3.2.4 Gas and Oil Fueled Low Pressure Steam and Hot Water Boilers

After steady-state testing has been completed, turn the main burner off and measure the flue gas temperature at 3.75 ($T_{F,OFF\,(t_1)}$) and 22.5 ($T_{F,OFF\,(t_2)}$) minutes after the burner shuts off using a single bead-type thermocouple, not larger than 24 AWG, located in the center of the flue pipe and one inch (25.4 mm) from its outlet. During this off-period, no water shall be allowed to circulate through the hot water boiler. A third flue gas temperature measurement shall then be made 45 minutes after the burner shuts off to determine the off-period minimum flue gas temperature ($T_{F,OFF\,(\infty)}$). During this cool-down test, the energy input rate to the pilot light ($Q_p$), if the unit is so equipped, shall be measured to within an accuracy of ±3 percent. Record all measured values. For oil fueled units not equipped with stack dampers, a means shall be provided to maintain the draft in the flue within ±0.01 inches of water gauge of the average value measured in the steady-state performance test.

3.3 *Flue Gas Temperature Measurement—Heat Up Test*

3.3.1 Gravity and Forced Air Central Furnaces (including direct vent systems)

After equilibrium conditions are achieved following the cool-down test and the required measurements performed, the furnace shall be turned on, the flue gas temperature measured at the same locations specified in section 3.2, at 0.5 ($T_{F,ON\,(t_1)}$) and 2.5 ($T_{F,ON\,(t_2)}$) minutes after the main burner(s) comes on. The indoor air circulating fan shall remain off during the first 1.5 minutes of this warm up test and shall then be turned on unless the furnace employs a single motor to drive a power burner and an indoor air circulating blower, in which case both shall be started together. Record the measured temperatures.

3.3.2 Low Pressure Steam and Hot Water Boilers

After equilibrium conditions are achieved following the cool-down test and the required measurements performed, the steam or hot water boiler shall be turned on and the flue gas temperature measured at the same locations specified in section 3.2 at 1.0 ($T_{F,\ ON(t_1)}$) and 5.5 ($T_{F,\ ON(t_2)}$) minutes after the main burner(s) comes on. The pump circulating the water through the hot water boiler shall be started simultaneously with the main burner(s). During the heat-up test for oil fired boilers, means shall be provided to maintain the draft in the flue within ±0.01 inches of water column of the average draft measured in the steady-state test. Record the measured temperatures.

3.4 *Jacket Loss Measurement*

A jacket loss test is specified only for units intended to be installed outdoors. Measure the jacket loss ($L_J$) in accordance with the following ANSI standards and record the total loss and ambient room temperature during the test:

(i) Gravity central furnaces—Z21.47-1973, section 2.9.1 and Appendix F.

(ii) Gas fueled forced air central furnaces—Z21.47-1973, section 2.9.2 and Appendix F. ,

(iii) Gas fueled low pressure steam and hot water boiler—ANSI Z21.47-1973, section 2.9.2 and Appendix F.

(iv) Oil fueled forced air central furnaces—Z91.1-1972 Appendix B.

(v) Oil fueled low pressure steam and hot water boilers—ANSI Z21.47-1973, section 2.9.2 and Appendix F.

3.5 *Measurement for Determining Effectiveness of Stack Dampers*

The effectiveness of a stack damper ($D_O$), in furnaces so equipped, shall be determined by measuring the cross sectional area of the stack ($A_S$), the net area of the damper plate ($A_D$) (the area of the damper plate minus the area of any holes in the plate), and the angle which is the angle the damper plate makes when closed with a plane perpendicular to the axis of the stack. The equation in section 4.3 is then employed to calculate $D_O$.

3.6 *Measurements for Determining Dp for Systems Equipped with Power Burners*

On power burner systems not employing stack dampers or on power burner systems with a stack damper and an integral draft diverter, the flue gas temperature during the off-period ($T_{F,\ OFF}$) may be measured during the cool-down test described in section 3.2. The procedures to be used for measuring $T_{F,\ OFF}$ are described below.

On systems equipped with both power burners and stack dampers, and not employing an integral draft diverter, $D_P$ shall be measured during a separate cool-down test. This separate cool-down test shall be conducted after warm-up test described in Section 3.3 for determining the on-period flue gas temperature. It shall be conducted by letting the unit run after the warm-up test is completed until steady-state conditions are reached, as indicated by temperature changes in the flue gas of not more than plus or minus 5° F (2.8° C) between readings 15 minutes apart, and then shutting the unit off with the stack damper controls by-passed or adjusted so that the stack damper remains open during the resulting cool-down period. If a draft was maintained in the flue during the steady state performance test described in Section 3.1 the same draft (within ±0.01 inches of water gauge of the average value measured during the steady-state tests) shall be maintained during this cool-down period.

The flue gas mass flow rate during the off-period ($\dot{m}_{F,OFF}$) may be measured at a specific off-period flue gas temperature and then corrected to obtain its value at a flue gas temperature at steady-state ($T_{F,SS}$), using the procedure described below.

Within one minute after the unit is shut off to start the cool down test for determining $D_P$, begin feeding a tracer gas into the combustion chamber at a constant flow rate, $\dot{V}_T$, and at a point which will allow for the best possible mixing with the air flowing through the chamber. On units equipped with an oil fired power burner, the best location for injecting this tracer gas is through a hole drilled in the blast tube. The value of $\dot{V}_T$ shall be periodically measured with an instantaneously reading flow meter having an accuracy of ±3 percent of the quantity measured and shall be less than 1 percent of the air flow rate through the furnace. If a combustible tracer gas is used, there should be a delay period between the time the unit is shut off and the time the tracer gas is first injected to prevent ignition of the tracer gas.

Between 5 and 6 minutes after the unit is shut off to start the cool-down test, the percent volumetric concentration of tracer gas, $C_T$, in the flue gas and the flue gas temperature, $T_{F,\ OFF}$, shall be measured in the center of the flue pipe on the furnace (boiler) side of the draft regulator and not more than 12 inches from the furnace flue-gas outlet. In addition, the barometric pressure shall also be determined. A single bead-type thermocouple, not larger than No. 24 AWG, shall be used to make the temperature measurement. The concentration of tracer gas shall be obtained using an instrument which will result in an accuracy of ±2 percent in the value of $C_T$ measured and may be either a batch or continuous reading type instrument. If the sampling arrangement for the instrument results in a delay time between drawing of a sample and its analysis, this delay should be taken into account so that the temperature measurement and the measurement of tracer gas concentration coincide.

The rate of the flue gas mass flow through the furnace and the factors $D_P$, $D_F$, and $D_S$ are calculated by the equations in section 4.4 of this Appendix.

4.0 Calculation of Derived Results From Test Measurements

4.1 *Annual Fuel Utilization Efficiency for Electric Furnaces and Boilers*

The annual fuel utilization efficiency for electric furnaces and boilers, $EFFY_{A-E}$, is given by:

$EFFY_{A-E}=100$ (for indoor units)

$EFFY_{A-E}=100-3.3\ L_J$ (for electric forced air central furnaces intended for outdoor installation)

$EFFY_{A-E}=100-4.7\ L_J$ (for electric boilers intended for outdoor installation)

where $L_J$=the jacket loss as determined in section 3.4 of this Appendix.

4.2 *Annual Fuel Utilization Efficiency for Gas or Oil Furnaces*

The following calculations are to be performed to determine the annual fuel utilization of a gas or oil furnace. Figure 10 provides an illustration of a worksheet which may be used to tabulate the results of test measurements and calculations.

4.2.1 System number

Determine the system number for the type of furnace being tested in accordance with Table 1 or 2.

4.2.2 Ratio of combustion air to stoichiometric air

Determine the ratio of combustion air to stoichimetric air, $R_{T,\ F}$, from Figure 1 for the test fuel, by using the value of dry flue gas $CO_2$ concentration $X_{CO_2,\ F}$, determined in accordance with sections 3.1 and 3.2 of this Appendix.

4.2.3 Ratio of combustion and relief air to stoichiometric air

For systems 1, 2, 5, or 6 employing an integral draft diverter, determine the ratio of the sum of combustion and relief air to stoichiometric air, $R_{T,\ S}$, from Figure 1 for the type of test fuel, by using the value of dry stack gas $CO_2$ concentration, $X_{CO_2,\ S}$, determined in accordance with section 3.1 of this Appendix.

4.2.4 Average sensible heat loss at full-load steady state operation

For systems, 1, 2, 5, or 6 employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S,\ S,\ S}$, expressed as a percent, from Figure 2 using the value of $R_{T,\ S}$ determined in 4.2.4, the type of test fuel, and $\Delta T_{S,\ SS}$,

where

$$\Delta T_{S,\ SS}=T_{S,\ SS,\ X}-70,$$

where

$T_{S,\ SS,\ X}$=measured stack gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Farenheit

70=assumed indoor average conditioned air temperature, in degrees Farenheit

For systems 3, 4, or 7 through 12, or systems 1, 2, 5, or 6 employing a draft hood, determine the average sensible heat loss a full-load steady-state operation, $L_{S,\ SS,\ A}$, expressed as a percent, from Figure 2 using the value of $R_{T,\ F}$ determined in 4.2.2, the type of test fuel, and $\Delta T_{F,\ SS}$,

where

$$\Delta T_{F,\ SS}=T_{F,\ SS}-70$$

where

$T_{F,\ SS}$=flue gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Fahrenheit

70=as defined above

4.2.5 Steady state efficiency

Calculate the steady-state efficiency (excluding jacket loss), $\eta_{SS}$, expressed in percent and defined as

$$\eta_{SS}=100-L_{L,\ A}-L_{S,\ SS,\ A}$$

where

$L_{L,\ A}$=average latent heat loss of the test fuel determined in accordance with Table 3, in percent.

$L_{S,\ SS,\ A}$=as defined in 4.2.4

4.2.6 Average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation

Determine the average ratio of stack gas mass flow rate to flue gas mass flow at full-load steady-state operation, $S/_F$, from Table 1 or 2 for the system number to be tested.

4.2.7 Equivalent field stack gas temperature at full-load steady-state operation

Calculate the equivalent field stack gas temperature at nll-load steady-state operation, $T_{S,\ SS}$, expressed in degrees Fahrenheit and defined as:

$$T_{S,\ SS}=\frac{1}{S/_F}\ [T_{F,\ SS}-70]+70,$$

where

$T_{F,\ SS}$ as defined in 4.2.4

70 as defined in 4.2.4

$S/_F$ as defined in 4.2.6

4.2.8 On-cycle time constant.

Calculate the on-cycle time constant, $\tau_{on}$, expressed in minutes and defined as:

$$\tau_{on}=\frac{t_2-t_1}{\ln\left[\frac{T_{F,\ SS}-T_{F,\ on}(t_1)}{T_{F,\ SS}-T_{F,\ on}(t_2)}\right]}$$

where

for furnaces: $t_1$=0.5 minutes
$t_2$=2.5 minutes

for boilers: $t_1$=1.0 minutes
$t_2$=5.5 minutes

$T_{F,\ on}(t_1)$=flue gas temperature measured at time ($t_1$) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit.

$T_{F,\ on}(t_2)$=flue gas temperature measured at the time ($t_2$) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit as defined in 4.2.4.

$T_{F,\ SS}$

4.2.9 Effective flue gas temperature difference at start-up

Calculate the effective flue gas temperature difference at start-up of the system burner, $\theta_{F,O,X}$, expressed in degrees Fahrenheit and defined as:

$$\theta_{F,O,X}=[T_{F,SS}-T_{F,on}(t_1)]e^{\frac{t_1}{\tau_{on}}}$$

where

$T_{F,SS}$ as defined in 4.2.4
$T_{F,on}(t_1)$ as defined in 4.2.8
$t_1$ as defined in 4.2.8
$\tau_{on}$ as defined in 4.2.8

4.2.10 Off-cycle time constant

Calculate the off-cycle time constant, $\tau_{off}$, expressed in minutes and defined as:

$$\tau_{off}=\frac{t_4-t_3}{\ln\left[\frac{T_{F,OFF}(t_3)-T_{F,OFF(\infty)}}{T_{F,OFF}(t_4)-T_{F,OFF(\infty)}}\right]}$$

where

for furnaces: $t_3$=1.5 minutes
$t_4$=9.0 minutes

for boilers: $t_3$=3.75 minutes
$t_4$=22.5 minutes

$T_{F,\ OFF}(t_3)$=flue gas temperature measured at time ($t_3$) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit.

$T_{F,\ OFF}(t_4)$=flue gas temperature measured at time ($t_4$) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit.

$T_{F,\ OFF}(\infty)$=minimum flue gas temperature determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit.

4.2.11 Effective flue gas temperature difference at shut-down

Calculate the effective flue gas temperature difference at shut-down of the system burner, $\psi_{F,\ O,\ X}$, expressed in degrees Fahrenheit and defined as:

$$\psi_{F,\ O,\ X}=[T_{F,\ OFF}(t_3)-T_{F,\ OFF}(\infty)]\ e^{\frac{t_3}{\tau_{off}}}$$

where

$T_{F,\ OFF}(t_3)$ as defined in 4.2.10
$T_{F,\ on}(\infty)$ as defined in 4.2.10
$t_3$ as defined in 4.2.10
$\tau_{off}$ as defined in 4.2.10

4.2.12 Minimum flue gas temperature difference above room temperature

Calculate the minimum flue gas temperature difference above room temperature, $\Psi_{F,\ \infty,\ X}$, expressed in degrees Fahrenheit and defined as:

$$\psi_{F,\ \infty,\ X}=T_{F,\ OFF}(\infty)-70,$$

where

$T_{F,\ OFF}(\infty)$ as defined in 4.2.10
70 as defined in 4.2.4

4.2.13 Minimum stack gas temperature difference above room temperature

Calculate the minimum stack gas temperature difference above room temperature, $\Psi_{S,\ \infty,\ X}$ expressed in degrees Fahrenheit and defined as:

For systems numbered 1-4:

$$\psi_{S,\ \infty\ X}=\frac{(D_F)\ (\psi_{F,\ \infty,\ X})}{(S/_F)\ (D_S)}$$

where
$D_F$ = Off-cycle flue gas draft factor selected from Table 1 or, for units with power burners where $D_F$ is measured, determined in accordance with section 4.4.2 of this Appendix, in degrees Fahrenheit.
$D_S$ = Off-cycle stack gas draft factor selected from Table 1 or, for units with power burners where $D_F$ is measured, determined in accordance with section 4.4.3 of this Appendix, in degrees Fahrenheit.
$S/_F$ = as defined in 4.2.6
$\psi_{F,\infty,X}$ = as defined in 4.2.12
for systems numbered 5-8:

$$\psi_{S,\infty,X} = \psi_{F,\infty,X}$$

where
$\psi_{F,\infty,X}$ as defined in 4.2.12

4.2.14 Effective stack gas temperature difference at shut-down.
Calculate the effective stack gas temperature difference at shut-down, $\psi_{S,O,X}$, expressed in degrees Fahrenheit and defined as:
for systems numbered 1-4:

$$\psi_{S,O,X} = \frac{(D_F)(\psi_{F,O,X})}{(S/_F)(D_S)}$$

where
$D_F$ as defined in 4.2.13
$\psi_{F,O,X}$ as defined in 4.2.11
$S/_F$ as defined in 4.2.6
$D_S$ as defined in 4.2.13
for systems numbered 5-8:

$$\psi_{F,O,X} = \psi_{F,O,X}$$

where
$\psi_{F,O,X}$ as defined in 4.2.11

4.2.15 Correction factors for direct vent systems
Calculate a correction factor which corrects for the use of outdoor air for combustion instead of air at room temperature, $C_S$, defined as

$$C_S = 1 + \frac{(70-42)\eta_{SS}}{(T_{F,SS}-70)}100$$

where
42 = average outdoor temperature corresponding to 5200 degree day location, in degrees Farenheit
$\eta_{SS}$ as defined in 4.2.5
$T_{F,SS}$ as defined in 4.2.7
70 as defined in 4.2.4

The correction factor which corrects for the effect of outdoor air passing through the heat exchanger during the off-period, $C'_S$, is defined as:

$$C'_S = 1.22$$

4.2.16 Multiplication factor for sensible heat loss during burner on-cycle
Calculate a multiplication factor for sensible heat loss during burner on-cycle, $K_{S,on}$, defined

$$K_{S,on} = \frac{100C_P[1+(R_{T,F})(A/_F)]}{HHV_A}$$

where
$C_P$ = 0.24 BTU per pound—degree Fahrenheit, specific heat of air
$R_{T,F}$ as defined in 4.2.2
$A/_F$ = stoichiometric air/fuel ratio determined in accordance with Table 3
$HHV_A$ average higher heating value of the test fuel determined in accordance with Table 3, in Btu's per pound.

4.2.17 Multiplication factor for sensible heat loss during burner off-cycle
Calculate a multiplication factor for sensible heat loss during burner off-cycle, $K_S$, OFF defined as:
for system numbered 1-4:

$$K_{S,OFF} = \frac{(T_{F,SS}+460)^{1.19}(D_F)(K_{S,on})}{(T_{F,SS}-70)^{0.56}}$$

Where
460 = conversion factor to convert degrees Fahrenheit to degrees Rankine
$T_{F,SS}$ as defined in 4.2.4
70 as defined in 4.2.4
$D_F$ as defined in 4.2.13
$K_{S,on}$ as defined in 4.2.16
for systems numbered 5-8:

$$K_{S,OFF} = \frac{(T_{S,SS}+460)^{1.19}(D_S)(S/_F)(K_{S,on})}{(T_{S,SS}-42)^{0.56}}$$

where
$T_{S,SS}$ as defined in 4.2.7
$D_S$ as defined in 4.2.13
$S/_F$ as defined in 4.2.6
$K_{S,on}$ as defined in 4.2.16
460 as defined in 4.2.17
42 as defined in 4.1.15
or systems numbered 9-12:

$$K_{S,OFF} = \frac{(T_{S,SS}+460)^{1.19}(D_F)(K_{S,on})}{T_{S,SS}-42)^{0.56}}$$

where
$T_{S,SS}$ as defined in 4.2.7
$D_F$ as defined in 4.2.13
$K_{S,on}$ as defined in 4.2.16
460 as defined in 4.2.17
42 as defined in 4.2.15

4.2.18 Multiplication factor for infiltration loss during burner on-cycle
Calculate a multiplication factor for infiltration loss during burner on-cycle, $K_{I,on}$, defined as: for systems numbered 1-8:

$$K_{I,on} = (\phi)(S/_F)(K_{S,on})$$

where
$\phi$ = 0.7, infiltration parameter
$S/_F$ as defined in 4.2.6
$K_{S,ON}$ as defined in 4.2.16

4.2.19 Multiplication factor for infiltration loss during burner off-cycle
Calculate a multiplication factor for infiltration loss during burner off-cycle $K_{I,OFF}$, defined as: for systems numbered 1-8:

$$K_{I,OFF} = \frac{(T_{S,SS}+460)^{1.19}(K_{I,on})(D_S)}{(T_{S,SS}-42)^{0.56}}$$

where
$T_{S,SS}$ as defined in 4.2.7
460 as defined in 4.2.17
42 as defined in 4.2.15
$K_{I,ON}$ as defined in 4.2.18
$D_S$ as defined in 4.2.13

**4.2.20 Ratio of average burner on-time per cycle to on-cycle time constant.**

**Calculate the ratio of average burner on-time per cycle to on-cycle time constant, $t_{on}/\tau_{on}$, defined as:**

$$\frac{t_{on}}{\tau_{on}}$$

where
for furnaces:
$t_{on}$ = 3.87 minutes, the average burner on-time per cycle, based on 5 cycles per hour at half load.
for boilers:
$t_{on}$ = 9.68 minutes, the average burner on-time per cycle, based on 2 cycles per hour at half load.
$\tau_{on}$ as defined in 4.2.8

4.2.21 Ratio of average burner off-time per cycle to off-cycle time constant
Calculate the ratio of average burner off-time per cycle to off-cycle time constant, $t_{off}/\tau_{off}$, defined as:

$$\frac{t_{off}}{\tau_{off}}$$

where
for furnaces:
$t_{off}$ = 13.3 minutes, the average burner off-time per cycle, based on 5 cycles per hour at half load.
for boilers:
$t_{off}$ = 33.26 minutes, the average burner off-time per cycle, based on 2 cycles per hour at half load.
$\tau_{off}$ = as defined in 4.2.10

4.2.22 Effective flue gas temperature difference at burner start-up, corrected for burner cycling effect
Calculate the effective flue gas temperature difference at burner start-up, corrected for burner cycling effect, $\theta_{F,O}$ expressed in degrees Fahrenheit and defined as:
when

$$(t_{on}/\tau_{on}) \leq (t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\theta_{F,O} = \theta_{F,O,X}$$

for systems numbered 9-12:

$$\theta_{F,O} = (C_S)(\theta_{F,O,X})$$

when

$$(t_{on}\tau_{on}) > (t_{off}/\tau_{off});$$

for systems numbered 1-8:

$$\theta_{F,O} = \theta_{F,O,X}\left(1-e^{-\frac{t_{off}}{\tau_{off}}}\right)$$

for systems numbered 9-12:

$$\theta_{F,O} = (C_S)(\theta_{F,O,X})\left(1-e^{-\frac{t_{off}}{\tau_{off}}}\right)$$

where
$t_{on}/\tau_{on}$ as defined in 4.2.20
$t_{off}/\tau_{off}$ as defined in 4.2.21
$\theta_{F,O,X}$ as defined in 4.2.9
$C_S$ as defined in 4.2.15

4.2.23 Effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect
Calculate the effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{F,O}$, when

$$(t_{on}/\tau_{on}) \leq (t_{off}/\tau_{off}):$$

for systems numbered 1-8:

$$\psi_{F,O} = (\psi_{F,O,X})\left(1-e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

for systems numbered 9-12:

$$\psi_{F,O} = (C_S')(\psi_{F,O,X})\left(1-e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

when

$$(t_{on}/\tau_{on})(t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\psi_{F,O} = \psi_{F,O,X}$$

for systems numbered 9-12:

$$\psi_{F,O} = \psi(C_S')(_{F,O,X})$$

where
$t_{on}/\tau_{on}$ as defined in 4.2.20
$t_{off}/\tau_{off}$ as defined in 4.2.21
$\psi_{F,O,X}$ as defined in 4.2.11
$C_S'$ as defined in 4.2.15

4.2.24 Effective minimum flue gas temperature difference above room temperature, corrected for burner cycling effect

Calculate the effective minimum flue gas temperature difference above room temperature, $\psi_{F,\infty}$, corrected for burner cycling effect, expressed in degrees Fahrenheit and defined as:
for systems numbered 1-8:

$$\psi_{F,\infty} = \psi_{F,\infty,X_I}$$

for systems numbered 9-12:
where

$$\psi_{F,\infty} = (C_S)(\psi_{F,\infty,X})$$

$C_S'$ as defined in 4.2.15
$\psi_{F,\infty,X}$ as defined in 4.2.12

4.2.25 Effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect

Calculate the effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{S,O}$, expressed in degrees Fahrenheit and defined as:
when

$$(t_{on}/\tau_{on}) \leq (t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\psi_{S,O} = \psi_{S,O,X}\left(1-e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

when

$$t_{on}/\tau_{on} > (t_{off}/\tau_{off})$$

for systems numbered 1-8:

$$\psi_{S,O} = \psi_{S,O,X}$$

Where

$t_{on}/\tau_{on}$ as defined in 4.2.20

$t_{off}/\tau_{off}$ as defined in 4.2.21

$\psi_{S,O,X}$ as defined in 4.2.14

4.2.26 Off-cycle sensible heat loss integration factors
For systems numbered 1-4, determine off-cycle sensible heat loss integration factors, F3 and F4, from Figures 3 and 4, respectively, using values of $\psi_{F,O}$ defined in section 4.2.23, and $t_{off}/\tau_{off}$ defined in section 4.2.21.

For systtms numbered 5-12, determine off-cycle sensible heat loss integration factors, F5 and F6, from Figures 5 and 6, respectively, using values of $\psi_{F,O}$ defined in section 4.2.23, and $t_{off}/\tau_{off}$ definee in section 4.2.21.

4.2.27 Off-cycle infiltration heat loss integration factors
For systems numbered 1-8, determine off-cycle infiltration heat loss integration factors, F7 and F8, from Figures 7 and 8, respectively, using values of $\psi_{S,O}$ defined in section 4.2.25, and $t_{off}/\tau_{off}$ defined in section 4.2.21.

4.2.28 On-cycle sensible heat loss
Calculate the on-cycle sensible heat loss of the system, $L_{S,ON}$, expressed in percent and defined:

for systems numbered 1-8:

$$L_{S,on} = L_{S,SS} - (K_{S,on})(\theta_{F,O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1-e^{\left(-\frac{t_{on}}{\tau_{on}}\right)}\right),$$

for systems numbered 9-12:

$$L_{S,on} = (C_S)(L_{S,SS,A}) - (K_{S,on})(\theta_{F,O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1-e^{\left(-\frac{t_{on}}{\tau_{on}}\right)}\right)$$

where
$C_S$ as defined in 4.2.15
$L_{S;\,SS,\,A}$ as defined in 4.2.4
$K_{S,\,ON}$ as defined in 4.2.16
$\theta_{F,\,0}$ as defined in 4.2.22
$t_{on}/\tau_{on}$ as defined in 4.2.20

4.2.29 Off-cycle sensible heat loss
Calculate the off-cycle sensible heat loss of the system, $L_{S,\,OFF}$ expressed in percent and defined as:
for systems numbered 1-4:

$$L_{S,\,OFF}=(K_{S,\,OFF})\left(\frac{t_{off}}{t_{on}}\right)(F3)+(\psi_{F,\,\infty})(F4),$$

for systems numbered 5-12:

$$L_{S,\,OFF}=(K_{S,\,OFF})\left(\frac{t_{off}}{t_{on}}\right)(F5)+(\psi_{F,\,\infty})(F6),$$

where
$K_{S,\,OFF}$ as defined in 4.2.17
$t_{off}$ as defined in 4.2.21
$t_{on}$ as defined in 4.2.20
$F3$, $F4$, $F5$, and $F6$ as defined in 4.2.26
$\psi_{F,\,\infty}$ as defined in 4.2.24

4.2.30 On-cycle infiltration heat loss
Calculate the on-cycle infiltration heat loss of the system, $L_{I,\,ON}$, expressed in percent and defined as:
for systems numbered 1-8:

$$L_{I,\,ON}=K_{I,\,ON}(70-42),$$

where
$K_{I,\,ON}$ as defined in 4.2.18
70 as defined in 4.2.4
42 as defined in 4.2.15

for systems numbered 9-12:

$$L_{I,\,ON}=0$$

4.2.31 Off-cycle infiltration heat loss
Calculate the off-cycle infiltration heat loss of the system $L_{I,\,OFF}$, expressed in percent and defined as:
for systems number 1-8:

$$L_{I,\,OFF}=$$
$$K_{I\ OFF}(70-42)\left(\frac{t_{off}}{t_{on}}\right)(F7)+(\psi_{S,\,\infty\ X})(F8)$$

where
$K_{I,\,OFF}$ as defined in 4.2.19
70 as defined in 4.2.4
42 as defined in 4.2.15
$t_{off}$ as defined in 4.2.21
$t_{on}$ as defined in 4.2.20
$F7$, $F8$ as defined in 4.2.27
$\psi_{S,\,\infty,\,X}$ as defined in 4.2.13

for systems numbered 9-12:

$$L_{I,\,OFF}=0$$

4.2.32 Part-load fuel utilization efficiency
Calculate the part-load fuel utilization efficiency, expressed in percent and defined as:

for indoor units:

$$\eta_u=100-L_{L,\,A}-$$
$$\left[\frac{t_{on}}{t_{on}+\frac{Q_P}{Q_{in}}(t_{off})}\right][L_{S,ON}+L_{S,OFF}+L_{I,\,ON}+L_{I,\,OFF}]$$

for outdoor units:

$$\eta_u=100-L_{L,\,A}-C_i(L_i)-$$
$$\left[\frac{t_{on}}{t_{on}+\frac{(Q_P)}{Q_{in}}(t_{off})}\right][L_{S,ON}+L_{S,OFF}+L_{I,ON}+L_{I,OFF}]$$

where
$C_i$=3.3 for furnaces intended to be installed outdoors
4.7 for boilers intended to be installed outdoors
$Q_P$=pilot flame fuel input rate determined in accordance with section 3.2 of this Appendix, in Btu's per hour
$Q_{IN}$=full-load input rate (including pilot flame fuel input rate) determined in accordance with section 3.1 of this Appendix, in Btu's per hour
$L_i$=jacket loss determined in accordance with section 3.4 of this Appendix, in percent
$L_{L,A}$ as defined in 4.2.5
$t_{ON}$ as defined in 4.2.20
$t_{OFF}$ as defined in 4.2.21
$L_{S,ON}$ as defined in 4.2.28
$L_{S,OFF}$ as defined in 4.2.29
$L_{I,ON}$ as defined in 4.2.30
$L_{I,OFF}$ as defined in 4.2.31

4.2.33 Annual fuel utilization efficiency
Calculate the annual fuel utilization efficiency, *EFFYA* defined as:

$$EFFY_A=$$
$$\frac{(\eta_{SS})(\eta_u)(5200)}{(\eta_{SS})(5200)+(2.5)(\eta_u)\left(\frac{Q_P}{Q_{in}}\right)(1.7)(4600)}$$

where
5200=the average number of annual heating degree days for the United States
4600=the average number of non heating season hours per year that the energy to the pilot light is assumed wasted
1.7=average furnace sizing factor
$\eta_{SS}$=as defined in 4.2.5
$\eta_u$=as defined in 4.2.32
$Q_P$=as defined in 4.2.32
$Q_{IN}$=as defined in 4.2.32

4.3 *Additional Requirements for Furnaces Utilizing a Stack (or flue) Damper.*

Calculate the automatic stack (or flue) damper effectiveness, $D_o$, defined as:
when

$$A_D\ cos\ \Phi > 0.59\ A_S:$$

$$D_O=\frac{2.24\left[1-\frac{A_D\ cos\ \Phi}{A_S}\right]}{\sqrt{1-\left[1-\frac{A_D\ cos\ \Phi}{A_S}\right]^2}}$$

when

$$A_D\ cos\ \Phi \leq 0.59\ A_S:$$

$$D_O=1,$$

where
$A_S$=cross sectional area of the stack determined in accordance with section 3.5 of this appendix, in square inches
$A_D$=net area of the damper plate determined in accordance with section 3.5 of this appendix, in square inches
$\Phi$=the angle the damper plate makes when closed with a plane perpendicular to the axis of the stack

4.4 *Additional Requirements for Furnaces Utilizing Indoor Air for Combustion and Draft Control.*

For units obtaining combustion air and draft control air from inside the residence, the appropriate factor describing the ratio of on-cycle stack flow to on-cycle flue flow ($S/F$), the ratio of off-cycle flue flow to on-cycle flow at identical temperatures ($D_F$), and the ratio of off-cycle stack flow to on-cycle stack flow at identical temperatures ($D_S$) shall be determined from Table 1.

4.4.1 Optional procedure for determination of $D_F$ for furnaces or boilers employing a power burner

Calculate the ratio ($D_F$) of the rate of flue gas mass flow through the furnace or boiler during the off period, $\dot{m}_{F,\,OFF}(T_{F,\,SS})$, to the rate of flue gas mass flow during the on-period, $\dot{m}_{F,\,SS}(T_{F,\,SS})$, and defined as:

$$D_F=\frac{\dot{m}_{F,\,OFF}(T_{F,SS})}{\dot{m}_{F,\,SS}(T_{F,\,SS})}$$

where

$$\dot{m}_{F,\,OFF}(T_{F,SS})=\dot{m}_{F,\,OFF}(T_{F,\,OFF})\cdot$$
$$\left[\frac{T_{F,SS}-42}{T_{F,\,OFF}-42}\right]^{0.56}\left[\frac{T_{F,\,OFF}+460}{T_{F,SS}+460}\right]^{1.19}$$

where
$T_{F,\,SS}$ =as defined in 4.2.4
$T_{F,\,OFF}$=flue gas temperature during the off-period measured in accordance with section 3.6 of this Appendix, in degrees Fahrenheit

$$\dot{m}_{F,\,OFF}(T_{F,\,OFF})=\frac{100\dot{V}_T}{C_T}\rho_F,$$

where
$\dot{V}_T$=flow rate of tracer gas through the furnace measured in accordance with section 3.6 of this Appendix, in cubic feet per minute
$C_T$=concentration by volume of tracer gas present in the flue gas sample measured in accordance with section 3.6 of this Appendix, in percent

$$\rho_F=\frac{1.325P_B}{460+T_{F,\,OFF}},$$

where
$T_{F,OFF}$ as defined above
$P_B$ =barometric pressure measured in accordance with section 3.6 of this Appendix, in inches of mercury

$$\dot{m}_{F,SS}(T_{F,SS})=\left[(R_{T,F})\left(\frac{A}{F}\right)+1\right]\frac{Q_{in}}{HHV_A},$$

where
$R_{T,F}$ as defined in 4.2.2
$A/F$ as defined in 4.2.16
$Q_{in}$ as defined 4.2.32
$HHV_A$ as defined in 4.2.16

4.4.2 Optional procedure for determination of off-cycle draft factor for flue gas flow for furnaces or boilers employing a power burner

Calculate the off-cycle draft factor for flue gas flow, $D_F$, defined as
for systems numbered 2, 4 or 10: $D_F=D_F$,
for system number 12: $D_F=(D_F)(D_O)$,
where
$D_F$ as defined in 4.4.1
$D_O$ as defined in 4.3

4.4.3 Optional procedure for determination of off-cycle draft factor for stack gas flow for furnaces or boilers employing a power burner

Calculate the off-cycle draft factor for stack gas flow, $D_S$, defined as:
for system number 2: $D_S=D_F+0.55$
for system number 4: $D_S=D_F+.40$;
for system number 8: $D_S=(D_F)\ (D_O)$,
where
$D_F$ as defined in 4.4.1
$D_O$ as defined in 4.3

4.5 *Additional Requirements for Furnaces Utilizing a Direct Vent System*

For furnaces utilizing a direct vent system or intended for outdoor installation, the appropriate $S/F$ factor and $D_F$ factor shall be determined from Table 2. If a unit is equipped with a power burner, $D_F$ may be calculated using the value of $D_F$ determined in section 4.4.1 of this section.

4.6 *Additional Requirements for Furnaces Which Modulate or Vary Fuel Input Without Controlling Excess Combustion Air*

A furnace which is equipped with a mechanism for reducing the rate of fuel input but does not provide a means for controlling excess combustion air, shall be tested at its maximum firing rate in accordance with test procedures in section 3. These test results shall be used to calculate a seasonal efficiency and an annual operating cost which is based upon a single fixed fuel input rate.

4.7 *National Average Number of Burner Operating Hours*

Calculate the average number of burner operating hours, BOH, defined as:
$BOH=(A)\ (2080)\ (\text{design heating requirement})-B$,
where
2080=national average annual heating load hours
design heating requirement$=\frac{(Q_{in})\ (0.5)}{1000}$
where
0.5= approximate value for the ratio of steady state efficiency to 100 times the average furnace sizing factor
1000= conversion factor to convert Btu's per hour to kilo-Btu's per hour
$Q_{IN}$ as defined in 4.2.32

$$A=\frac{100,000}{(341,300)\ (PE+y\ BE)+(Q_{in}-Q_I)\ \eta_u}$$

$B$= $(0.0416)\ (Q_F)\ (\eta_u)\ (A)$
$PE$= power burner electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts.
$BE$= Circulating-air blower (or circulating-water pump) electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts
$y$= 1.38 for furnaces
1.00 for boilers or furnaces employing a single motor to drive a power burner and air circulating fan or blower, the ratio of average blower or pump on time to average burner on time
$Q_{IN}$ as defined in 4.2.32
$Q_F$ as defined in 4.2.32
$\eta_u$ as defined in 4.2.32

4.8 *Average Annual Fuel Energy Consumption for Gas or Oil Fueled Furnaces or Boilers*

Calculate the average annual fuel energy consumption for gas or oil fueled furnaces or boilers, $E_F$, expressed in Btu's per year, and defined as:

$$E_F=Q_{IN}-(Q_F)(BOH)+(8760)(Q_F),$$

where
$Q_{IN}$ as defined in 4.2.32
$Q_F$ as defined in 4.2.32
$BOH$ as defined in 4.7
8760=total number of hours in a year

4.9 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers*

Calculate the average annual auxiliary electrical energy consumption, $E_{AE}$, expressed in kilowatt-hours per year and defined as:
where
$E_{AE}=(PE+yBe)(BOH)$
$PE$ as defined in 4.7
$BE$ as defined in 4.7
$y$ as defined in 4.7
$BOH$ as defined in 4.7

4.10 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers*

Calculate the average annual electric energy consumption for electric furnaces or boilers, $E_E$, expressed in kilowatt-hours per year, and defined as:

$$E_E = \frac{(100)(2080)(\text{design heating requirement})}{EFFY_{A-E}} E,$$

where
100 = conversion factor to convert percent to decimal fraction

$$(\text{design heating requirement}) = \frac{(E_{ni})(0.5)}{E\ 1000}$$

where
$E_{in}$ = electric power input measured in accordance with section 3.1.7 of this Appendix
0.5 as defined in 4.7
1000 as defined in 4.7
2080 as defined in 4.7
$EFFY_{A-E}$ as defined in 4.1

4.11 *Average Number of Burner Operating Hours in Different Geographic Regions of the United States*

Calculate the average number of burner operating hours by geographic region of the United States, $BOH_R$, defined as:

$BOH_R = (HLH)$ (design heating requirement) $- B$,

where
$HLH$ = heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 9

$$B = \frac{(2)(HLH)(A)(Q_P)(\eta_U)}{100{,}000}$$

where
$HLH$ as defined above
$A$ as defined in 4.7
$Q_P$ as defined in 4.2.32
$\eta_u$ as defined in 4.2.32

Design heating requirement as defined in 4.7

4.12 *Average Annual Fuel Energy Consumption for Gas or Oil Fueled Furnaces or Boilers by Geographic Region of the United States*

Calculate the average annual fuel energy consumption by geographic region of the United States, $E_{F,R}$, expressed in Btu's per year, and defined as:

$$E_{F,R} = (Q_{IN} - Q_P)\ (BOH_R) + (8760)\ (Q_P),$$

where
$Q_{IN}$ as defined in 4.2.32
$Q_P$ as defined in 4.2.32
$BOH_R$ as defined in 4.11
8760 as defined in 4.8

4.13 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers by Geographic Region of the United States*

Calculate the average annual auxiliary electrical energy consumption by geographic regions of the United States, $E_{AE,R}$ expressed in kilowatt-hours per year and defined as:

$$E_{AE,R} = (PE + y\,BE)\ (BOH_R),$$

where
$PE$ as defined in 4.7
$BE$ as defined in 4.7
$Y$ as defined in 4.7
$BOH_R$ as defined in 4.11

4.14 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers by Geographic Region of the United States*

Calculate the average annual electric energy consumption by geographic region of the United States, $E_{E,R}$, expressed in kilowatt-hours per year, and defined as:

$$E_{E,R} = \frac{(100)\ (HLH)\ (\text{design heating requirement})}{(EFFY_{A-E})} E$$

where
100 as defined in 4.10
$HLH$ as defined in 4.11
(design heating requirement)$_E$ as defined in 4.10
$EFFY_{A-E}$ as defined in 4.1

4.15 *Minimum Standardized Design Heating Requirement*

Calculate the minimum standardized design heating requirement, $DHR_{MIN}$, expressed in Btu's per-hour for which a regional annual operating cost could be computed, defined as:

$$DHR_{MIN} = \frac{(\eta_{ss})\ (Q_{in})}{200}$$

4.16 *Maximum Standardized Design Heating Requirement*

Calculate the maximum standardized design heating requirement, $DHR_{MAX}$, expressed in Btu's per-hour, for which a regional annual operating cost could be computed, defined as:

$$DHR_{MAX} = \frac{(\eta_{ss})\ (Q_{in})}{110}$$

4.17 *Average Number of Burner Operating Hours by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement*

Calculate the average number of burner operating hours by geographic region of the United State for the minimum standardized design heating requirement, $BOH_{R-MIN}$, defined as:

$$BOH_{R-MIN} = A(HLH)\ (DHR_{MIN}) - B,$$

where
$A$ as defined in 4.7
$HLH$ as defined in 4.11
$DHR_{MIN}$ as defined in 4.15
$B$ as defined in 4.7

4.18 *Average Number of Burner Operating Hours by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement*

Calculate the average number of burner operating hours by geographic region of the United States for the maximum standardized design heating requirement, $BOH_{R-MAX}$, defined as:

$$BOH_{R-MAX} = A(HLH)\ (DHR_{MAX}) - B,$$

where
$A$ as defined in 4.7
$HLH$ as defined in 4.11
$DHR_{MAX}$ as defined in 4.16
$B$ as defined in 4.7

4.19 *Average Annual Fuel Energy Consumption for Gas or Oil Furnaces or Boilers by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement*

Calculate the average annual fuel energy consumption by geographic region of the United States for the minimum design heating requirement, $E_{E,R-MIN}$, expressed in Btu's per year and defined as:

$$E_{F,R-MIN} = (Q_{in} - Q_P)\ (BOH_{R-MIN}) + (8760)\ (Q_P),$$

where
$Q_{in}$ as defined in 4.2.32
$Q_P$ as defined in 4.2.32
$BOH_{R-MIN}$ as defined in 4.17
as defined in 4.8

4.20 *Average Annual Fuel Energy Consumption for Gas or Oil Furnaces or Boilers by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement*

Calculate the average annual fuel energy consumption by geographic region of the United States for the maximum design heating requirement, $E_{F,R-MAX}$, expressed in Btu's per year and defined as:

$$E_{F,R-MAX} = (Q_{IN} - Q_P)\ (BOH_{R-MAX}) + (8760)\ (Q_P),$$

where
$Q_{IN}$ as defined in 4.2.32
$Q_P$ as defined in 4.2.32
$BOH_{R-MAX}$ as defined in 4.17
8760 as defined in 4.8

4.21 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement*

Calculate the average annual auxiliary electrical energy consumption by geographic region of the United States for the minimum design heating requirement $E_{AE,R-MIN}$, expressed in kilowatt-hours per year and defined as:

$$E_{AE,R-MIN} = (PE + y\,BE)\ (BOH_{R-MIN}),$$

where
$PE$ as defined in 4.7
$y$ as defined in 4.7
$BE$ as defined in 4.7
$BOH_{R-MIN}$ as defined in 4.11

4.22 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement*

Calculate the average annual auxiliary electrical energy consumption by geographic region of the United States for the maximum design heating requirement,

$$E_{AE,R-MAX} = (PE + yBE)(BOH_{R-MAX}),$$

where
$PE$ as defined in 4.6
$Y$ as defined in 4.7
$BE$ as defined in 4.7
$BOH_{R-MAX}$ as defined in 4.11

4.23 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers by Geographic Region of the United States for the Minimum Standardized Design Heating Requirement*

Calculate the average annual electric energy consumption by geographic region of the United States for the minimum design heating requirement, $E_{E,R\ MIN}$ expressed in kilowatt-hours per year and defined as:

$$E_{E,R-MIN} = \frac{(100)\ (HLH)\ (DHR_{MIN})}{(EFFY_{A-E})}$$

where
100 as defined in 4.10
$HLH$ as defined in 4.11
$DHR_{MIN}$ as defined in 4.15
$EFFY_{A-E}$ as defined in 4.1

4.24 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers by Geographic Region of the United States for the Maximum Standardized Design Heating Requirement*

Calculate the average annual electric energy consumption by geographic region of the United States for the maximum design heating requirement, $E_{E,R-MAX}$ expressed in kilowatt-hours per year and defined as:

$$E_{E,R-MAX} = \frac{(100)(HLH)(DHR_{MAX})}{(EFFY_{A-E})},$$

where
100 as defined in 4.10
$HLH$ as defined in 4.11
$DHR_{MAX}$ as defined in 4.16
$EFFY_{A-E}$ as defined in 4.1

Table 1

Factors Describing Air Flow Rate for Gas and Oil-Fired Furnaces or Boilers Utilizing Indoor Air for Combustion and Draft Control

| Type of Burner | Units Without a Stack Damper but with Draft Hood or Draft Diverter | | | | Units Without a Stack Damper but with Barometric Draft Control | | | | Units With a Stack Damper and Draft Hood or Draft Diverter | | | | Units With a Stack Damper and Barometric Draft Control | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | System # | S/F | $D_F$ | $D_S$ | System # | S/F | $D_F$ | $D_S$ | System # | S/F | $D_F$ | $D_S$ | System # | S/F | $D_F$ | $D_S$ |
| Atmospheric | 1 | 2.4 | 1.0 | 1.0 | 3 | 1.4 | 1.0 | 1.0 | 5 | 2.4 | — | $D_o$ | 7 | 1.4 | — | $D_o$ |
| Power | 2 | 2.4 | 0.3 | 0.85 | 4 | 1.4 | .30 | 0.70 | 6 | 2.4 | — | $D_o$ | 8 | 1.4 | — | $0.30 \times D_o$ |

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and FEA.

Table 2

Factors Describing Air Flow Rates for Gas or Oil-Fired Furnaces/Boilers Intended for Installation Out-Of-Doors or Intended for Indoor Installation But Equipped With a direct vent system.

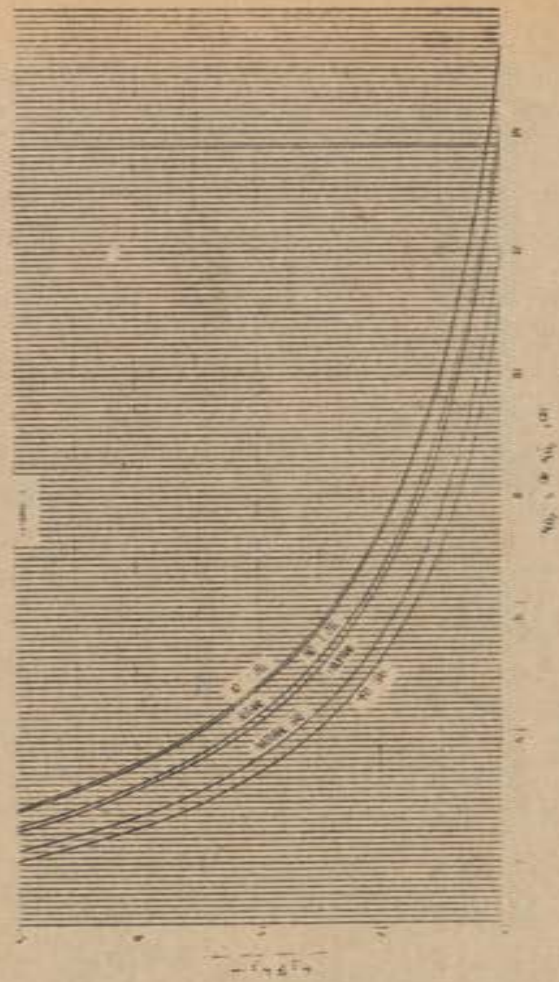
| Type of Burner | Units Without A Stack Or Flue Damper | | Outdoor Units With a Flue Damper Or Indoor Units With a Stack Damper | | Type of Draft | S/F |
|---|---|---|---|---|---|---|
| | System# | $D_F$ | System# | $D_F$ | None | 1 |
| Atmosphere | 9 | 1.00 | 11 | $D_o$ | barometric damper | 1.4 |
| Power | 10 | 0.30 | 12 | $0.30 \times D_o$ | draft diverter | 2.4 |

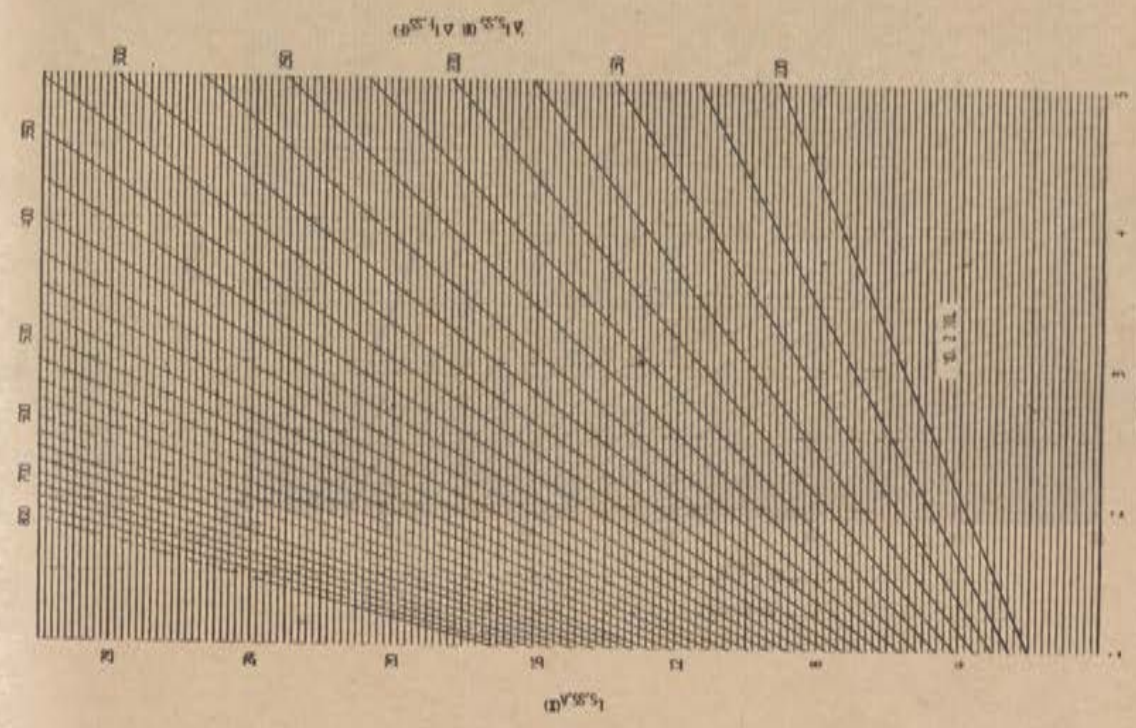
The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and FEA.

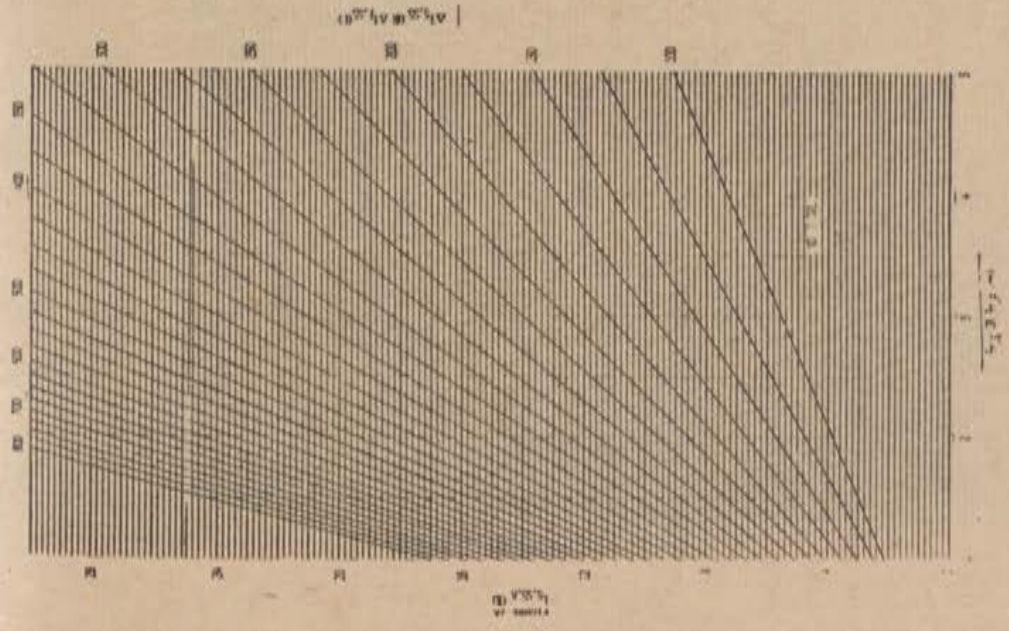
Table 3

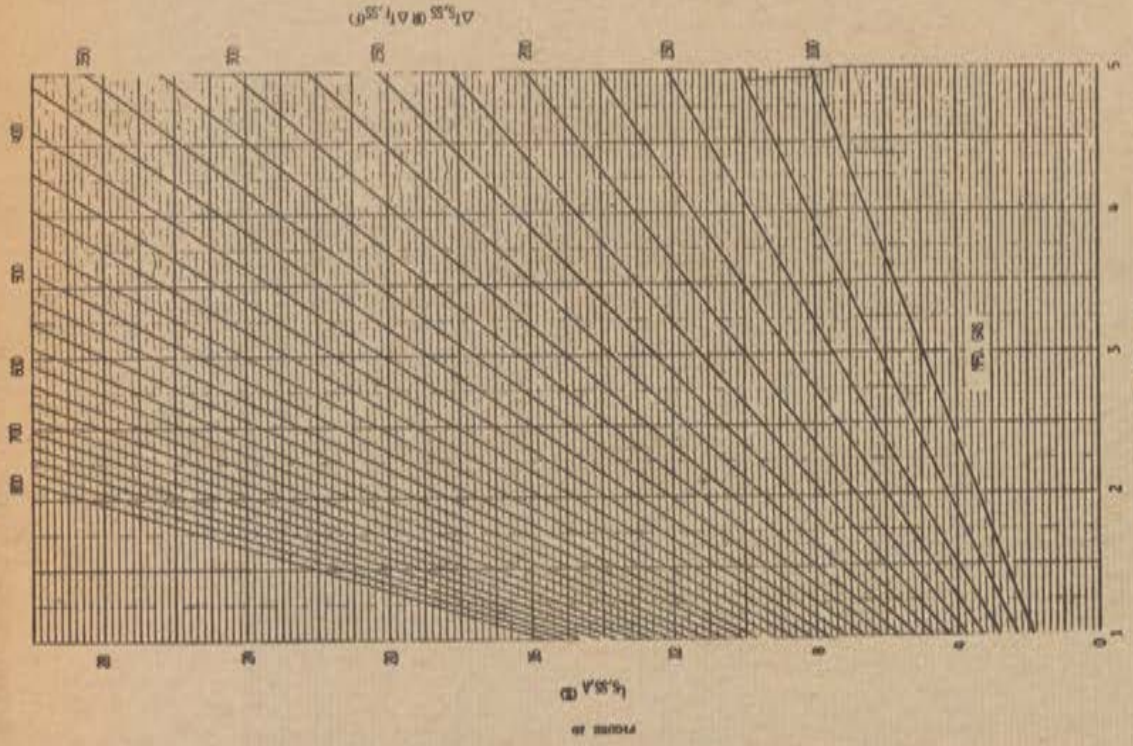
Values of Higher Heating Value ($HHV_A$), Stoichiometric Air/Fuel Ratio (A/F), and Latent Heat Loss ($L_{L,A}$) for Typical Fuels

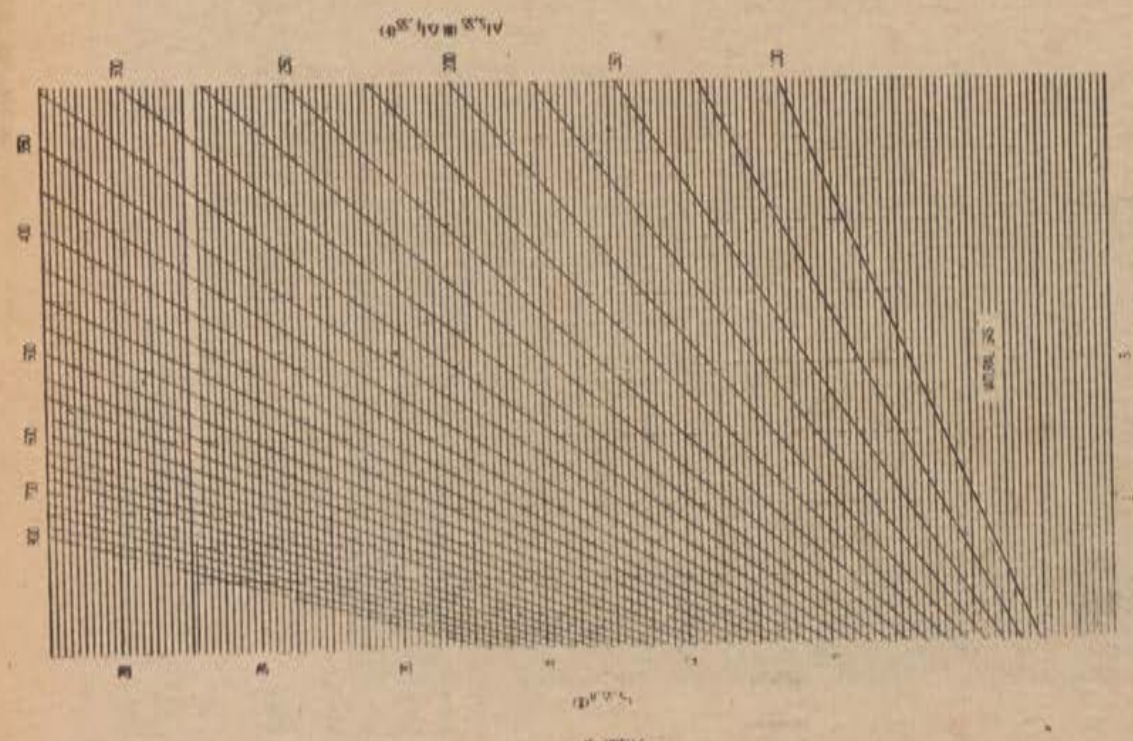
| Fuels | $HHV_A$ (Btu/lb) | A/F(—) | $L_{L,A}$(%) |
|---|---|---|---|
| No.1 Oil | 19,800 | 14.58 | 6.55 |
| No.2 Oil | 19,500 | 14.51 | 6.50 |
| Natural Gas | 21,800 | 16.04 | 9.91 |
| Manufactured Gas | 18,500 | 11.83 | 10.16 |
| Propane | 21,500 | 15.60 | 8.00 |
| Butane | 20,890 | 15.38 | 7.80 |

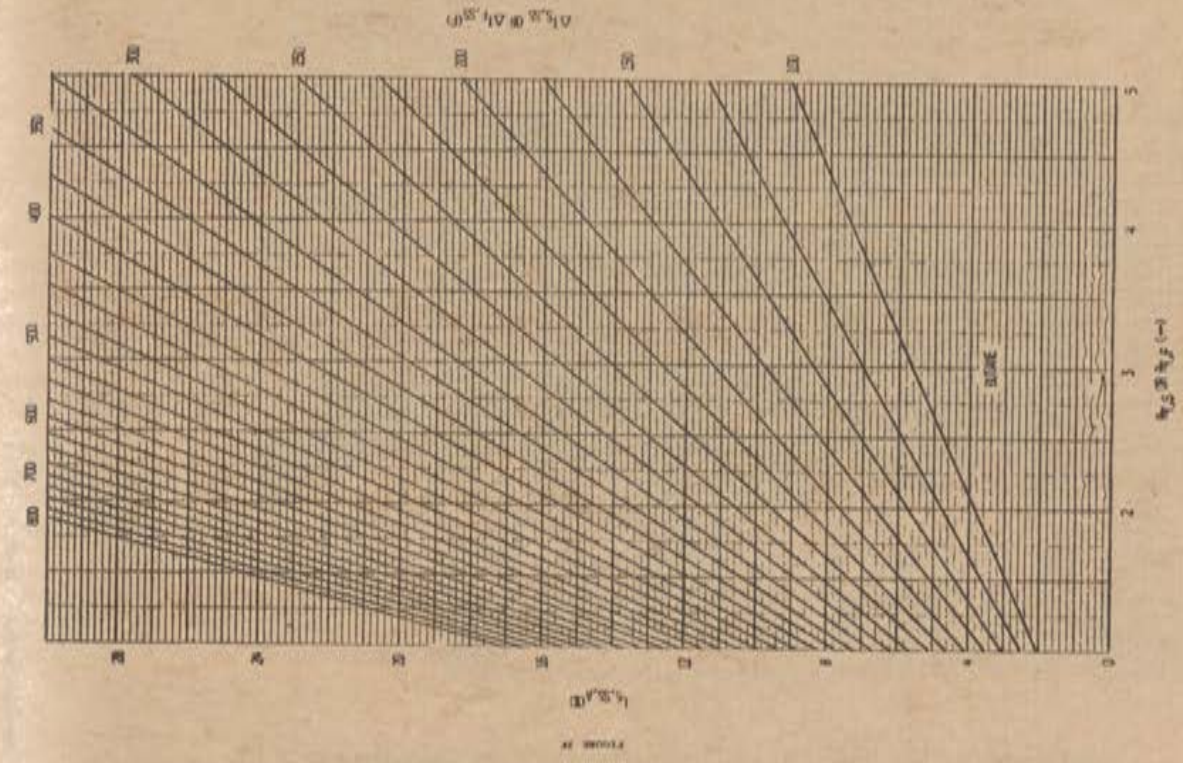


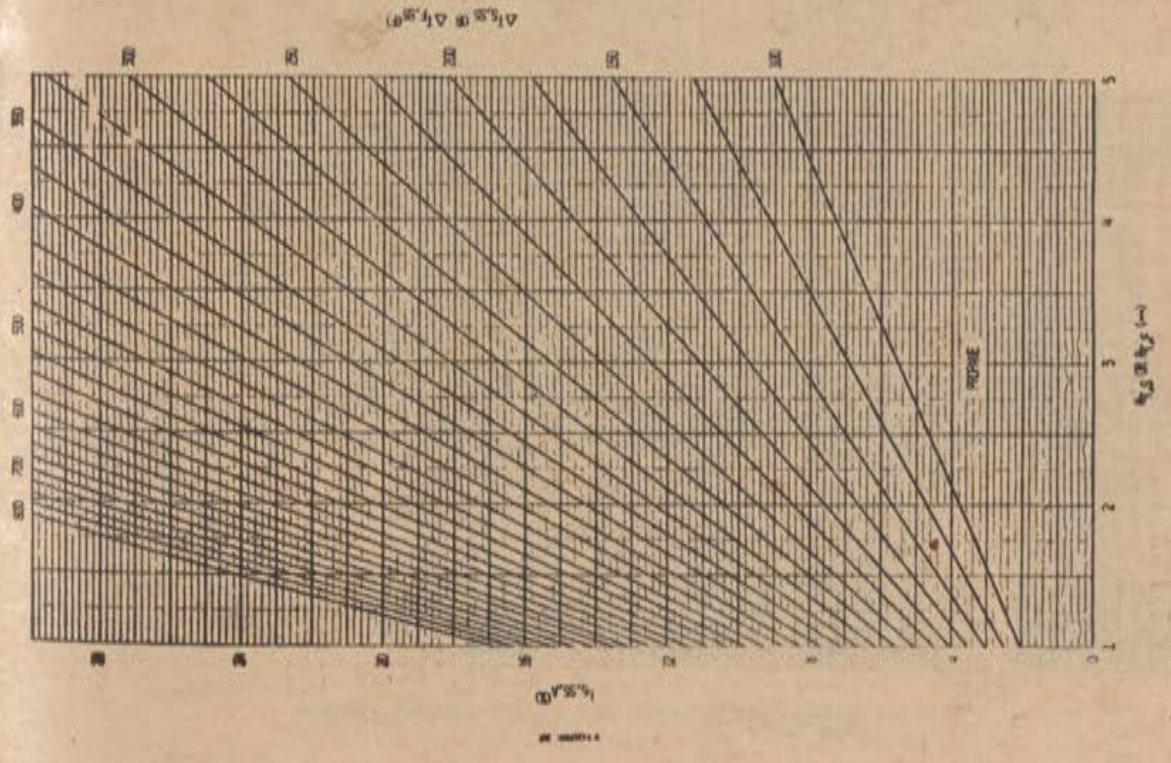












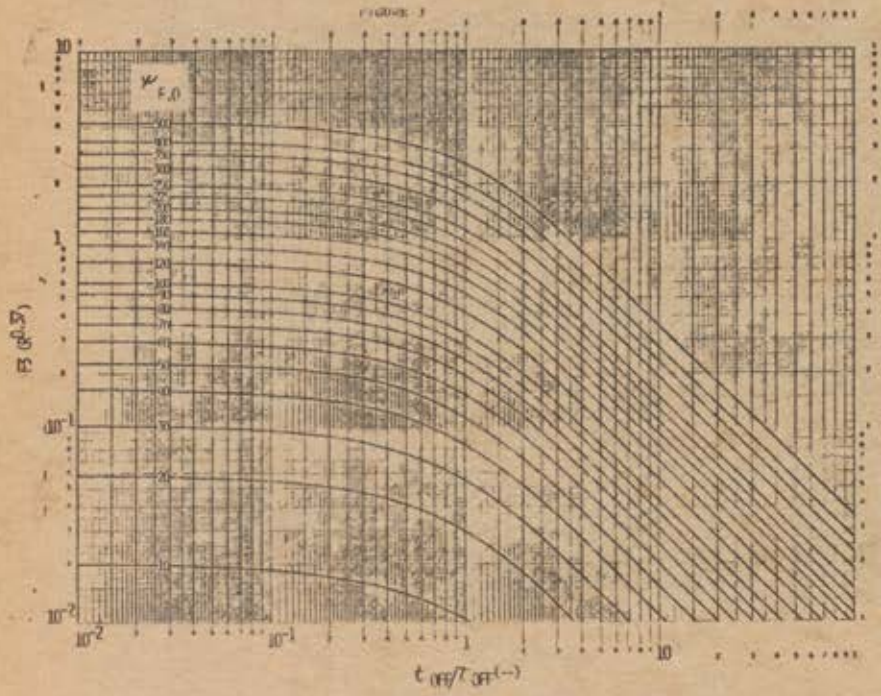


FIGURE 5

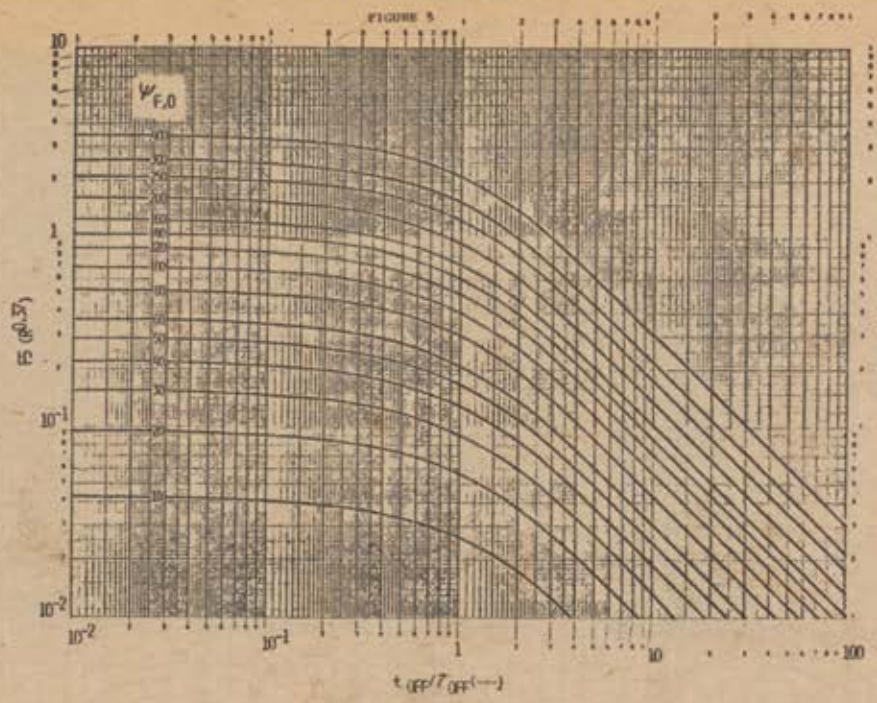



FIGURE 6

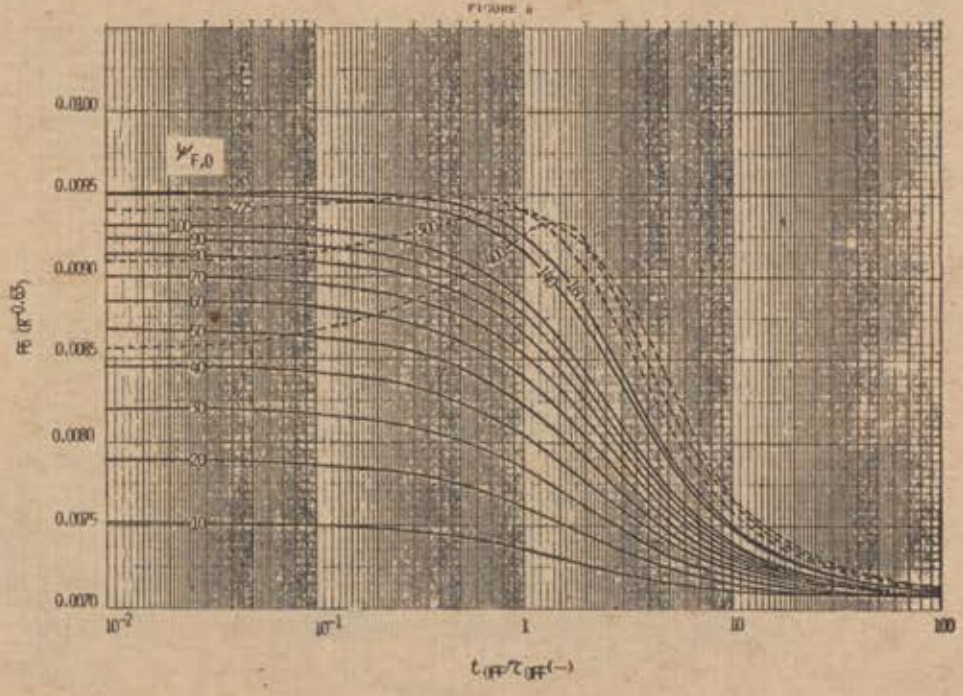


FIGURE 7

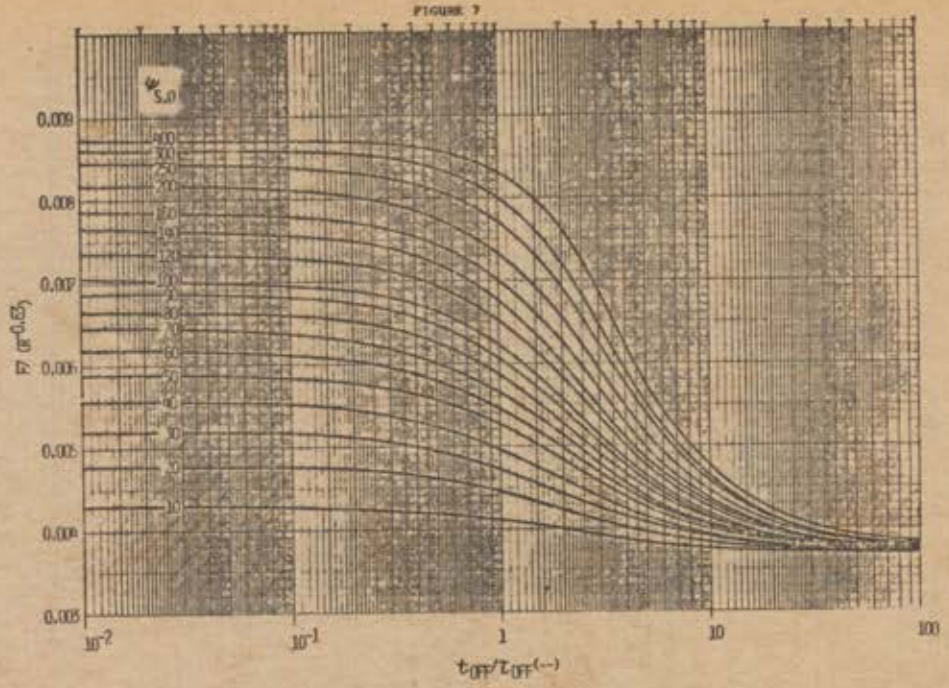
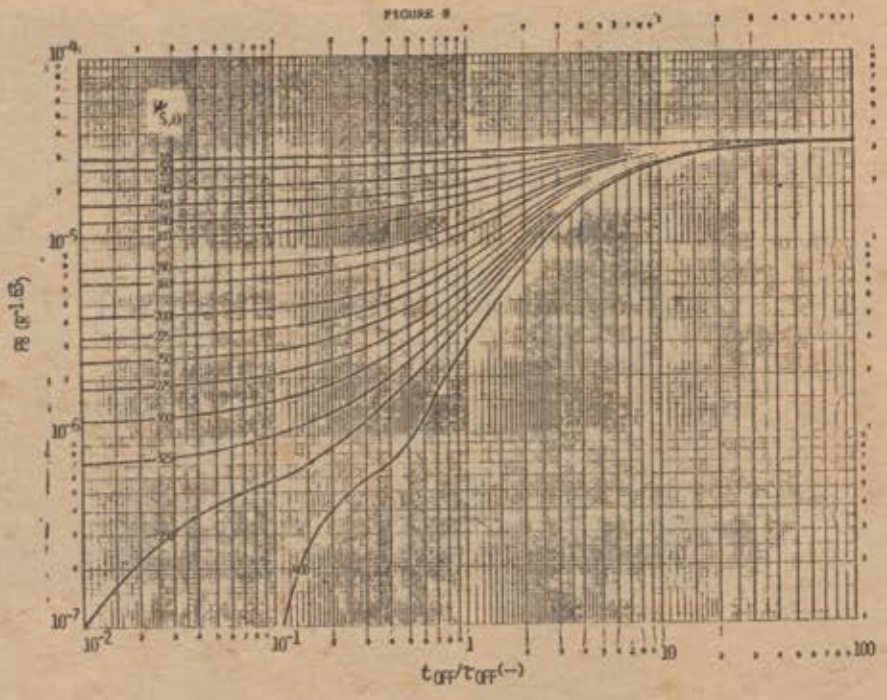
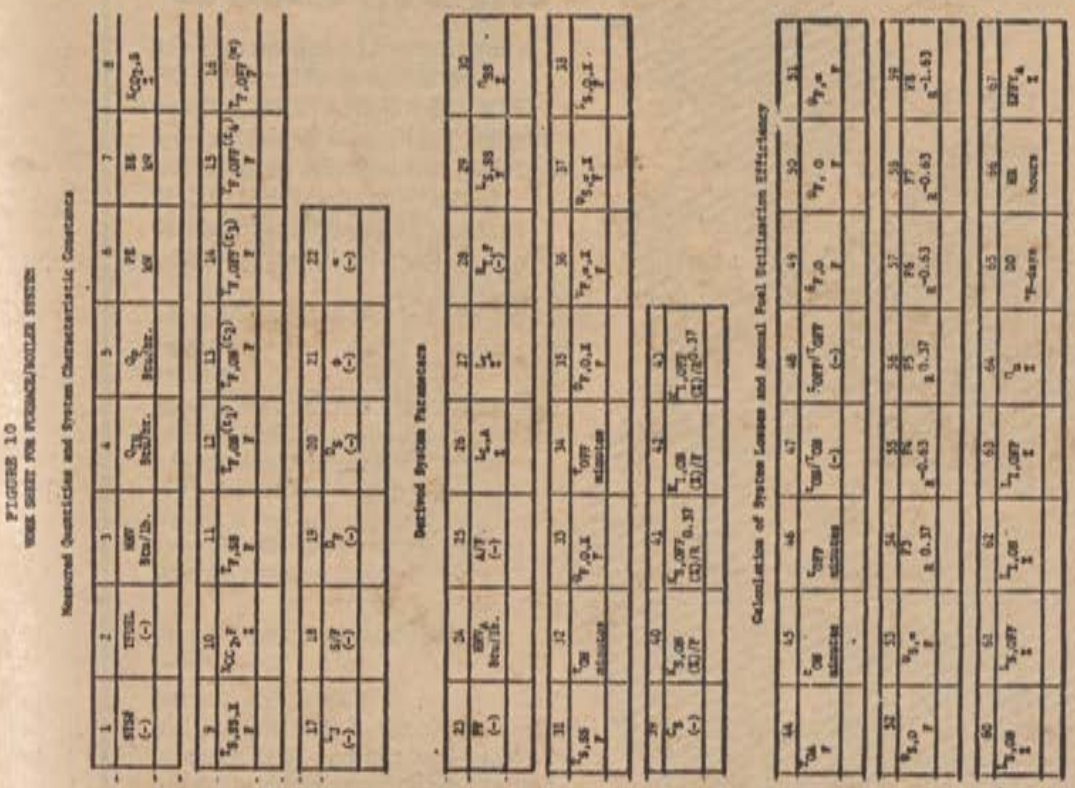



FIGURE 8





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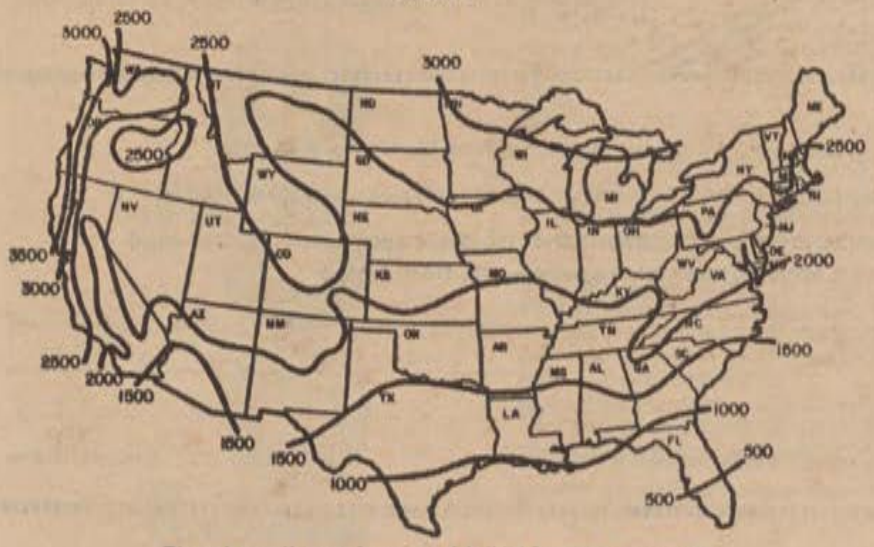
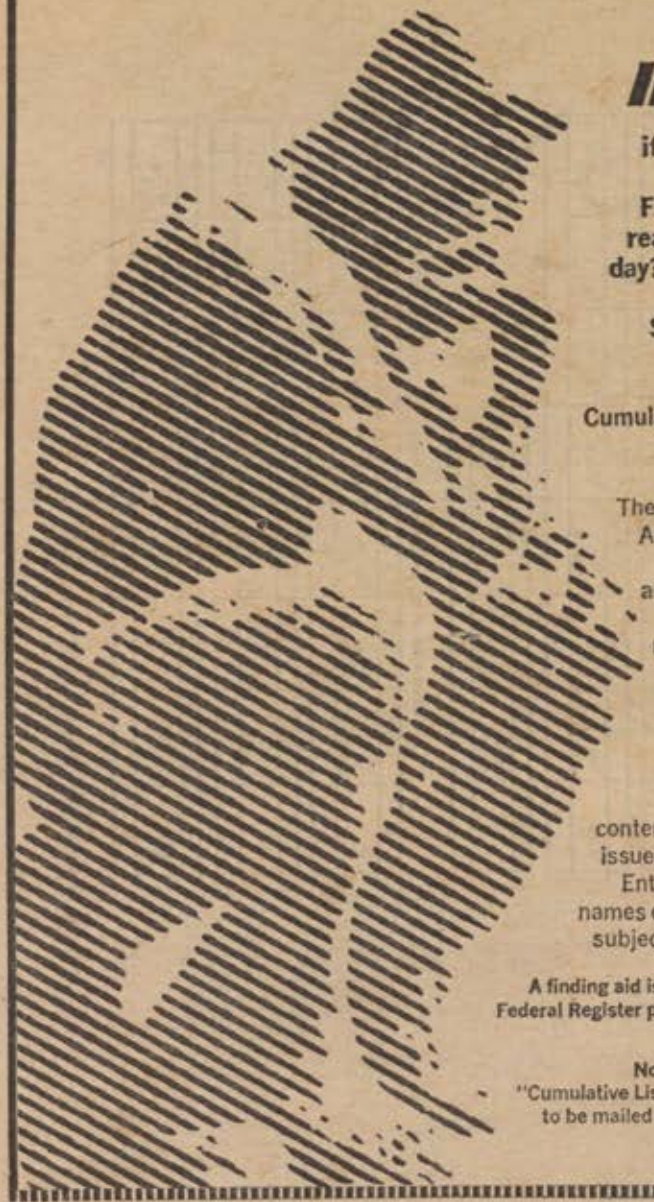
FEDERAL REGISTER, VOL. 42, NO. 155—THURSDAY, AUGUST 11, 1977

FIGURE 9




This map is reasonably accurate for most parts of the United States but is necessarily highly generalized, and consequently not too accurate in mountainous regions, particularly in the Rockies.



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